

APR 12 1978

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY OREGON
DOUGLAS WADSWORTH, Co. CLK.
Deputy Clerk

In the Matter of the Acquisition) No. 1084
of Real Property for the) ORDER TO TENDER MONEY
Construction of the Berry Creek) INTO CIRCUIT COURT
Dam)

WHEREAS by Resolution filed in the County Court Journal, Douglas County declared its intention to acquire certain real property for the construction of the Berry Creek dam for storing water for irrigation, domestic water and other beneficial use.

WHEREAS, the Board of County Commissioners were unable to agree with the owners of the parcel as to the value of the property taken; and

WHEREAS, Douglas County filed a complaint in Circuit Court April 6, 1978; and

WHEREAS, it is necessary that the sum of money offered herein to the property owners, to-wit: Gordon McDowell and Thalia McDowell, be tendered into Court to be held by the Clerk until disposition of this matter is made,

NOW, THEREFORE, IT IS HEREBY ORDERED that the County Clerk be and hereby is authorized and directed to issue a warrant in the amount of \$83,035.00 payable to the Clerk of the Court to be held by the Clerk for the property owners herein.

DATED this 12th day of April, 1978.

BOARD OF COMMISSIONERS
OF DOUGLAS COUNTY

BY Paul T. Makinson
Paul T. Makinson, Chairman

BY Bill Vian
Bill Vian, Commissioner

BY John T. Truett
John T. Truett, Commissioner

STATE OF OREGON }
COUNTY OF DOUGLAS }

SS

I, _____ County Clerk of Douglas County, Oregon, do hereby certify that the foregoing is a true and correct copy of the original thereof as the same appears from the records of said County.

Witness my hand and seal this 12th day of April, 1978.

Deputy Clerk

Application No. 57401
Permit No.

APR 6 1978

DORIS L. WADSWORTH, Co. Clk
DEPUTY CLERK

BEFORE THE BOARD OF COMMISSIONERS OF DOUGLAS COUNTY,

In the Matter of the Acquisition) RESOLUTION
of Real Property for the Construction) NUNC PRO TUNC
of the Berry Creek Dam) Docket No. 1084

NOW AT THIS TIME, before the Board of County Commissioners of Douglas County, Oregon, sitting for the transaction of county business, there comes the matter of the construction of the Berry Creek Dam, and

IT APPEARING to the Board of Commissioners that a Resolution was entered on March 1, 1978, resolving to acquire certain properties in which Gordon McDowell, Thalia McDowell, State of Oregon, represented and acting by the Director of Veterans' Affairs and Southern Oregon Pacific Credit Association each claim an interest for the purpose of constructing a dam for storing water for irrigation, domestic and other beneficial use.

IT FURTHER APPEARING to the Board of Commissioners that a correction in the description of the property to be acquired is necessary, and it appearing to the Board that good cause exists, now, therefore,

NOW, THEREFORE, IT IS HEREBY RESOLVED that Douglas County acquire the real property described in Exhibit A attached hereto and incorporated herein as if fully set forth at this point verbatim; acquisition of said property shall be at a price mutually agreeable to the owner and the above entitled Board; and

IT IS FURTHER RESOLVED that if the Board of County Commissioners of Douglas County, Oregon, is unable to agree with the owner of said property, then the District Attorney for Douglas County, Oregon, is instructed to commence and prosecute in the name of the county the necessary proceedings for the condemnation of said property for the above mentioned public use.

DATED this 5th day of April 1978, nunc pro tunc, to March 1, 1978.

BOARD OF COMMISSIONERS
OF DOUGLAS COUNTY, OREGON

By Paul T. Makinson
Paul T. Makinson, Chairman

By Bill Vian
Bill Vian, Commissioner

By John T. Truett
John T. Truett, Commissioner

EXHIBIT "A"

Parcel No. 1

A parcel of land lying in the North Half of the Southwest Quarter, the Southeast Quarter of the Northwest Quarter, the Southwest Quarter of the Northeast Quarter and Lot 2, Section 20, Township 29 South, Range 7 West, Willamette Meridian, Douglas County, Oregon, being a portion of that property described in Book 441, Page 920, Instrument No. 70-2476, Deed Records of Douglas County, Oregon, and described as follows:

Beginning at the west exterior "L" corner of the A. C. McCullough Donation Land Claim No. 46, said corner being S 81° 56' 58"W 156.46 feet from the northwest corner of Lot 2 of said Section 20; thence S 0° 41' 50"W 675.00 feet along the most westerly line of said Donation Land Claim to the northeast corner of that property described in Book 594, Page 724, Instrument No. 76-03880, Deed Records of Douglas County, Oregon; thence N 69° 28' 32"W 1250.19 feet along the northerly line of said property; thence N 1° 34' 53"W 619.34 feet; thence N 40° 09' 17"W 1130.62 feet to a point on the north one-sixteenth line of Section 20; thence N 87° 45' 55"E 876.49 feet along said north line to the center north one-sixteenth corner of Section 20; thence continuing along said north one-sixteenth line N 87° 45' 48"E 210.03 feet; thence S 12° 01' 47"W 620.60 feet; thence S 16° 23' 45"E 153.79 feet; thence S 70° 40' 17"E 787.92 feet; thence S 48° 40' 04"E 415.06 feet to a point on the northerly line of said Donation Land Claim No. 46; thence N 89° 48' 18"W 129.72 feet along said northerly line to the Point of Beginning, containing 35.81 acres, more or less.

Parcel No. 2

A parcel of land lying in the West Half of the Northwest Quarter of Section 20, Township 29 South, Range 7 West, Willamette Meridian, Douglas County, Oregon, and described as follows:

Beginning at a point on the north line of said Section 20 which is N 87° 22' 39"E 710.04 feet from the northwest corner of Section 20; thence N 87° 22' 39"E 510.07 feet along said north line to the west one-sixteenth corner; thence S 1° 00' 35"W 940.14 feet along the west one-sixteenth line; thence N 28° 16' 16"W 1040.81 feet to the Point of Beginning, containing 5.49 acres, more or less.

Bearings and distances contained herein are true.

STATE OF OREGON }
COUNTY OF DOUGLAS } SS

DORIS L. WADSWORTH, County Clerk of Douglas County, Oregon do hereby certify that the foregoing has been by me compared with the original thereof, that it is a true and correct copy therefrom and of the whole of such original as the same appears on record in my office and custody.

Witness my hand and seal this 6th day of

April, 1978

DORIS L. WADSWORTH, County Clerk

Beatrice L. Weddell

DEPUTY.

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR DOUGLAS COUNTY

2 DOUGLAS COUNTY, a political)
subdivision of the State of)
3 Oregon,)

Case No. _____

Plaintiff,)

4 vs.)

5 GORDON McDOWELL, THALIA McDOWELL)

C O M P L A I N T

6 STATE OF OREGON DIRECTOR OF)

7 VETERANS' AFFAIRS, and SOUTHERN)

OREGON PACIFIC CREDIT)

8 ASSOCIATION,)

9 Defendant.)

10 Plaintiff alleges:

11 I

12 Plaintiff is a county existing and formed under the
13 laws of the State of Oregon.

14 II

15 Douglas County is authorized to construct and maintain
16 reservoirs, dams, and related facilities for storing water
17 for irrigation, domestic or beneficial use and construction of the
18 Berry Creek dam by Douglas County would serve such purpose.

19 III

20 The acquisition of certain lands for construction of
21 the Berry Creek dam is necessary and in the interests of the
22 general public.

23 IV

24 The defendants claim some right, title or interest in
25 the property described in Exhibit A attached hereto and
26 incorporated at this point if fully set forth herein.

V

1
2 The real property described in Exhibit A and title in
3 fee thereto is necessary for construction of the Berry Creek
4 Dam and prior to the commencement of this action the plaintiff
5 declared such necessity by Resolution.

6 VI

7 The acquisition described in Paragraph V is part of
8 contiguous and abutting tracts of real property title to
9 which is claimed by defendants. Access to such contiguous
10 and abutting tract westerly of Berry Creek shall be provided
11 by means of an all weather public road constructed at plaintiff's
12 sole cost. This road, hereafter referred to as "first
13 access road" for clarity, shall intersect with Olalla County
14 Road #38 at a point near where the existing road to and
15 through the property described in Paragraph V intersects with
16 this county road. The first access road shall generally
17 parallel this existing road and connect to the existing
18 bridge over Berry Creek. From the bridge to such westerly
19 tract of defendants, access shall be provided by an easement
20 upon the existing road. Access to that contiguous and abutting
21 tract of land northerly of the first access road shall be
22 provided by means of an all weather public road constructed
23 at plaintiff's sole cost (hereafter referred to as second
24 access road for clarity) which shall intersect the first
25 access road. The location of the second access road shall
26 be designated by defendants so long as its intersection with

1 the first access road is within 900 feet of that point where
2 the first access road intersects the southerly boundary of
3 the acquisition described in Paragraph V and so long as the
4 second access road is of the shortest feasible distance to
5 the nearest boundary of such northerly tract of defendants.

6 VII

7 The true value of the real property being appropriated
8 and the damages, if any, resulting from the appropriation
9 thereof is the sum of \$83,035.00.

10 VIII

11 Prior to the commencement of this action the plaintiff
12 attempted to acquire the real property herein sought to be
13 acquired by negotiation, purchase and agreement, but plaintiff
14 is unable to reach agreement with the defendants with respect
15 to compensation to be paid and therefore prosecutes this
16 action.

17 WHEREFORE, plaintiff prays that an assessment be made
18 by a jury duly empaneled in this action to determine the
19 compensation to be paid by reason of the appropriation; that
20 upon the payment in Court of the compensation assessed by
21 the jury, a judgment be given vesting in Douglas County, fee
22 simple title to the real property described in Paragraph IV
23 and providing access to defendants remaining land as set
24 forth in Paragraph VI

25 

26 Paul Nolte County Counsel
P. O. Box 1006
Roseburg, OR 97470

Parcel No. 1

A parcel of land lying in the North Half of the Southwest Quarter, the Southeast Quarter of the Northwest Quarter, the Southwest Quarter of the Northeast Quarter and Lot 2, Section 20, Township 29 South, Range 7 West, Willamette Meridian, Douglas County, Oregon, being a portion of that property described in Book 441, Page 920, Instrument No. 70-2476, Deed Records of Douglas County, Oregon, and described as follows:

Beginning at the west exterior "L" corner of the A. C. McCullough Donation Land Claim No. 46, said corner being S 81° 56' 58"W 156.46 feet from the northwest corner of Lot 2 of said Section 20; thence S 0° 41' 50"W 675.00 feet along the most westerly line of said Donation Land Claim to the northeast corner of that property described in Book 594, Page 724, Instrument No. 76-03880, Deed Records of Douglas County, Oregon; thence N 69° 28' 32"W 1250.19 feet along the northerly line of said property; thence N 1° 34' 53"W 619.34 feet; thence N 40° 09' 17"W 1130.62 feet to a point on the north one-sixteenth line of Section 20; thence N 87° 45' 55"E 876.49 feet along said north line to the center north one-sixteenth corner of Section 20; thence continuing along said north one-sixteenth line N 87° 45' 48"E 210.03 feet; thence S 12° 01' 47"W 620.60 feet; thence S 16° 23' 45"E 153.79 feet; thence S 70° 40' 17"E 787.92 feet; thence S 48° 40' 04"E 415.06 feet to a point on the northerly line of said Donation Land Claim No. 46; thence N 89° 48' 18"W 129.72 feet along said northerly line to the Point of Beginning, containing 35.81 acres, more or less.

Parcel No. 2

A parcel of land lying in the West Half of the Northwest Quarter of Section 20, Township 29 South, Range 7 West, Willamette Meridian, Douglas County, Oregon, and described as follows:

Beginning at a point on the north line of said Section 20 which is N 87° 22' 39"E 710.04 feet from the northwest corner of Section 20; thence N 87° 22' 39"E 510.07 feet along said north line to the west one-sixteenth corner; thence S 1° 00' 35"W 940.14 feet along the west one-sixteenth line; thence N 28° 16' 16"W 1040.81 feet to the Point of Beginning, containing 5.49 acres, more or less.

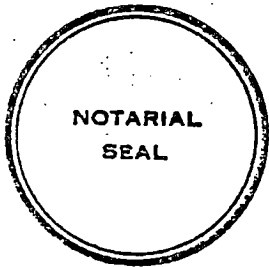
Bearings and distances contained herein are true.

STATE OF OREGON,

County of Douglas

ss.

I, Paul Makinson, being first duly sworn
depose and say that I am ~~the~~ one of the commissioners of Douglas County
and that the foregoing Complaint in the above entitled cause
is true, as I verily believe



Paul Makinson

Subscribed and sworn to before me this 6th

day of April, 1978

Nancy G. Gault

Notary Public for Oregon

My Commission expires 9/19/79

STATE OF OREGON,

County of

ss.

I, one of the attorneys for
do hereby certify that I have prepared the foregoing copy of and have carefully
compared the same with the original thereof; and that it is a correct transcript therefrom and of the whole thereof.
That the said in my opinion is well founded in law.

Oregon, dated the day of , 19

Attorney for

I hereby certify that I served the foregoing attorney for
day of , 19, by mailing to him a true and correct copy thereof, certified by me
as such. I further certify that said copy was placed in a sealed envelope addressed to the said attorney at
which is his regular office address, or his address as last given by him on a document which he has filed in the above
entitled cause and served on me; said sealed envelope was then deposited in the United States post office at
, Oregon, on the day last above mentioned, with the postage thereon fully paid

Attorney for

MAR 1 1978

ORRIS L. WADSWORTH, CO.
Deputy Clerk
DEPUTY CLERK

IN THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, OREGON

In the Matter of the Acquisition)
of Real Property for the construction) RESOLUTION
of the Berry Creek Dam) DOCKET No. 1084

NOW AT THIS TIME, before the Board of County Commissioners of Douglas County, Oregon, sitting for the transaction of county business, there comes the matter of the construction of the Berry Creek Dam; and

RECITALS:

Douglas County is authorized to construct and maintain reservoirs, dams, and related facilities for storing water for irrigation, domestic or other beneficial use.

The acquisition of certain lands for construction of the Berry Creek Dam is necessary for storing water for irrigation and domestic water and in the interests of the general public; and

Gordon McDowell, Thalia McDowell, State of Oregon, represented and acting by the Director of Veterans' Affairs and Southern Oregon Pacific Credit Association claim an interest in the real property upon which the dam and related improvements will be constructed and upon which related and necessary activities for construction will occur

NOW, THEREFORE, IT IS HEREBY RESOLVED that Douglas County acquire the real property described in Exhibit A attached hereto and incorporated herein as if fully set forth at this point verbatim; acquisition of said property shall be at a price mutually agreeable to the owner and the above entitled Board; and

IT IS FURTHER RESOLVED that if the Board of County Commissioners of Douglas County, Oregon, is unable to agree with the owner of said property, then the District Attorney for Douglas County, Oregon, is instructed to commence and prosecute in the name of the county the necessary proceedings for the condemnation of said property for the above mentioned public use.

DATED this 1st day of March 1978.

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY

By _____
Paul T. Makinson, Chairman

By Bill Vian
Bill Vian, Commissioner

By John T. Truett
John T. Truett, Commissioner

Parcel No. 1

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Bearings and distances contained herein are true.

PROVISIONS FOR ACCESS
TO
REMAINING MCDOWELL PROPERTY

Vehicular access will be provided to the remaining McDowell property by means of an all weather public road from Olalla County Road No. 38.

The road will be located generally along the route of the existing driveway. Two standard county road approaches (see attached) will be constructed at appropriate locations; one to serve the property northerly of the road and one to serve the property easterly of Berry Creek. The present bridge across Berry Creek will be reconstructed to a width of twelve feet and will be capable of supporting legal highway loads.