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DISTRICT COURT, DOUGLAS COUNTY, COLORADO

Case No. 90 CV 484, Division 1

RULE AND ORDER

DC9320140

DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO,

Petitioner,

v.

LEWIS W. SECORD and EILEEN J. SECORD; and
BANK WESTERN FEDERAL SAVINGS BANK, DENVER,

Respondents.

THIS MATTER came on regularly for hearing this day upon consent(s) to entry of Rule and Order with respect to the acquisition of the property which is the subject matter of this action, said consent(s) being duly executed by the persons interested as owners, and those otherwise interested of record; and it appearing to the court from said consent(s) and the other pleadings herein that said persons are the record owners and those otherwise interested and that said persons have agreed with the petitioner upon the compensation to be paid herein;

THE COURT FINDS: That it has full and complete jurisdiction of the subject matter of this action and the parties thereto; that service has been made upon all interested parties as required by law; Marilyn C. Green, Public Trustee and Treasurer of Douglas County and successor to Sharon K. Jones, has filed disclaimers herein; that the parties have agreed that the sum of \$24,000 represents the full compensation to be paid for the taking of said property and all interests therein, and use of temporary easement TE-413; that pursuant to said agreement, the petitioner has deposited into the registry fund of this court the total sum of \$24,000, which represents the full compensation to be paid for the taking of said property and all interests therein, including damages, use of temporary easement TE-413, costs, and interest, if any; and, therefore,

AFTER RECORDING PLEASE MAIL TO:
Colorado Department of Transportation
4201 E. Arkansas Avenue, Room 291
Denver, Colorado 80222
ATTENTION: Right of Way Section

IT IS ORDERED, ADJUDGED, and DECREED that parcel(s) No. 413 and UE-413, described in exhibit "A," and the access rights described in exhibit "B," attached hereto and incorporated herein by reference, have been duly and lawfully taken by the petitioner pursuant to the Statutes and the Constitution of the State of Colorado; that the interests of the respondents in said parcel(s) have been acquired by the petitioner, and that the title to said property, together with all appurtenances thereunto belonging, is hereby vested in the petitioner; and, it is

FURTHER ORDERED that the clerk of the court is directed to disburse from the funds on deposit the sum of \$4,580, made payable to the order of Lewis W. Secord and Eileen J. Secord, to be mailed to Clyde A. Faatz, Jr. c/o Hamilton & Faatz, 1600 Broadway, Suite 600, Denver, Colorado 80202; and, it is

FURTHER ORDERED that a certified copy of this Rule and Order be recorded and indexed in the office of the clerk and recorder of Douglas County, in like manner and with like effect as if it were a deed of conveyance from the owner and parties interested to the petitioner herein.

DATED 4/11, 1993.

BY THE COURT

Richard D. Turrell

District Judge

The moving party is hereby ordered to provide a copy of this order to all parties of record within five days of the date of this order.

Richard B. Turrell, District Judge

State of Colorado, County of Douglas - ss Certified to be a full, true and correct copy of the original in my custody.

Robbi Jones

Clerk of the District Court

AG Alpha No. HI DH SHCSN
AG File No. DNR9300058.LC

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AMENDED
EXHIBIT "A"
LEGAL DESCRIPTION
PROJECT NO. FR 083-1(39) SEC. 4
PARCEL NO. 413, UE-413,
FEBRUARY 23, 1993

A tract or parcel of land No. 413 of the Department of Transportation, State of Colorado, Project No. FR 083-1(39) Sec 4, containing 48,178 sq. ft./1.106 acres, more or less, in the NE 1/4 of Section 3, Township 7 South, Range 66 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at the NE corner of Section 3; Thence S. 84° 58' 15" W., a distance of 454.3 feet to a point on the northerly property line same point also being on the southerly right of way line of Stroh Road same point being the TRUE POINT OF BEGINNING;

1. Thence S. 00° 09' 15" W., a distance of 304.3 feet;
2. Thence continuing S. 00° 09' 15" W., a distance of 1013.4 feet to a point on the southerly property line;
3. Thence N. 79° 44' 15" W., along said property line a distance of 46.6 feet to a point on the existing right of way line of S.H. 83 (Feb. 90);
4. Thence N. 00° 57' 45" E., a distance of 1308.9 feet to a point on the northerly property line same point also being on the southerly right of way line of Stroh Road;
5. Thence N. 88° 45' 30" E., along the said property line a distance of 27.4 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 1.106 acres/48,178 square feet, more or less.

Basis of Bearings = All bearings are referenced to a line connecting the USGS Bench Mark TT15A 1934 (3 1/2" Brass Cap set in Concrete) and the SE corner of Section 34 (2" Aluminum Cap on a No. 5 Rebar stamped Western States Inc. L.S. 23053) having an assumed bearing of N. 85° 06' 04" W. Note: Pnt 53 = USGS Mkr and Pnt 52 = SE corner Sec. 34.

Excluding all oil, gas, and minerals in and under the parcel described above which are reserved by the respondents. However, petitioner shall have the right to use any surface earth, dirt, gravel, sand, or other road building material for highway purposes as it may desire. It is expressly agreed that such materials are not minerals. Respondents shall not be allowed to conduct any surface operations on said parcel, nor any drilling, exploration, mining or other activities which would disturb the subsurface support necessary for highway purposes. Also excluding all water and water rights in or appurtenant to said parcel.

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AMENDED
LEGAL DESCRIPTION
PROJECT NO. FR 083-1(39) SEC. 4
PARCEL NOS. 413, UE-413
FEBRUARY 23, 1993
PAGE TWO

UTILITY EASEMENT

A Utility Easement No. UE-413 of the Department of Transportation, State of Colorado, Project No. FR 083-1(39) Sec 4, containing 26,224 sq. ft./0.602 acres, more or less, in the NE 1/4 of Section 3, Township 7 South, Range 66 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said Utility Easement being more particularly described as follows:

Beginning at the NE corner of said Section 3; Thence S. 84° 58' 15" W., a distance of 454.3 feet to the TRUE POINT OF BEGINNING, said point being on the northerly property line;

1. Thence N. 88° 45' 30" E., a distance of 20.0 feet, along said northerly property line;
2. Thence S. 0° 09' 30" W., a distance of 305.6 feet;
3. Thence S. 0° 10' 15" W., a distance of 1016.0 feet, to a point on the southerly property line;
4. Thence N. 79° 44' 15" W., a distance of 20.0 feet, along said southerly property line;
5. Thence N. 0° 09' 15" E., a distance of 1013.4 feet;
6. Thence continuing N. 0° 09' 15" E., a distance of 304.3 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described Utility Easement contains 0.602 acres/26,224 square feet, more or less.

Basis of Bearings = All bearings are referenced to a line connecting the USGS Bench Mark TT15A 1934 (3 1/2" Brass Cap set in Concrete) and the SE corner of Section 34 (2" Aluminum Cap on a No. 5 Rebar Western States Inc. L.S. 23053) having an assumed bearing of N. 85° 06' 04" W. Note: Pnt 53 = USGS Mkr and Pnt 52 = SE corner Sec. 34.

For the purpose of replacing existing WYCO Pipeline easement.

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EXHIBIT "B"

ACCESS DESCRIPTION

PROJECT NO. FR 083-1(39) SECTION 4
 SH 83, Hilltop - South

PARCEL NO. 413

July 24, 1990

EACH AND EVERY RIGHT OR RIGHTS OF ACCESS to and from any part of the right of way of Colorado State Highway No. 83, and from and to any part of the real property in the NE 1/4 of Section 3, Township 7 South, Range 66 West, of the Sixth Principal Meridian, in Douglas County, Colorado, abutting upon said Highway, along or across the access line or lines described as follows:

CY 47-0083-21		
<u>FR 083-1(39) SECTION 4</u>	<u>413</u>	<u>EASTERLY</u>
(PROJ. NO.)	(PARCEL NO.)	(LOCATION OF LINE)

Beginning at the NE corner of Section 3; thence S. 84° 58' 15" W., a distance of 454.3 feet to a point on the northerly property line same point also being on the southerly right of way line of Stroh Road same point also being the True Point Of Beginning;

1. Thence S. 0° 09' 15" W., a distance of 434.3 feet to the center of a 35.00 foot opening which is being excepted from this access limitation;
2. Thence continuing S. 0° 09' 15" W., a distance of 883.4 feet to a point on the southerly property line;

Excepting, from this, the right to have the following point of access at the locations set forth hereinafter, to be limited in use by the width and location hereinafter designated according to centerline stationing of Project Number FR 083-1(39), Section 4, CY 47-0083-21.

CENTER OF ACCESS OPENING OPPOSITE

WIDTH	LT. OR RT.	C/L STATION
35.00 feet	Left	452 + 30

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