

DEE BENSON, United States Attorney (#0289)
STEPHEN ROTH, Assistant United States Attorney (#0289)
PATRICK J. WALSH, Department of Justice
Attorneys for the United States of America
476 United States Courthouse
350 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 524-5682

UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

MAY 31 1991

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

70.63 ACRES OF LAND, MORE OR LESS,
LOCATED IN SUMMIT COUNTY, STATE OF
UTAH, HILLCREST INVESTMENT COMPANY,
DAVID L. WILKINSON, and ANY UNKNOWN
OWNERS,

Defendants.

Civil No. 88-2406

FINAL ORDER
CONDEMNATION

RECORDED
91 JUN 20 AM 10:55
ALAN SPRIGGS
SUMMIT COUNTY RECORDER
FOUNDERS TITLE

RED NOTE AB
342699

The Court having reviewed the Stipulation and Motion for Final Order of Condemnation submitted in this matter by the United States of America and defendant Hillcrest Investment Company, and good cause therefor appearing; it is hereby


ORDERED that, a final Judgment of Just Compensation having been entered in this case on May 9, 1991, a copy of which is attached hereto, this Order shall constitute a Final Order of Condemnation of the property described in Schedule B hereto; and it is hereby

FURTHER ORDERED that the Clerk of the Court and the County Recorder of Summit County, State of Utah, shall be authorized to

file and record this Order, with its attachments, as a Final Order of Condemnation, title to the property described in said Schedule B having previously vested in the United States of America under the provisions of the Declaration of Taking Act, 40 U.S.C. § 258a-f (the Declaration of Taking in this matter having been recorded in the office of the Summit County Recorder on March 30, 1988, as Entry No. 287992, in Book 471, at pages 457, et seq.).

DATED this 31st day of May, 1991.

BY THE COURT:



THE HONORABLE DAVID SAM
United States District Judge

I hereby certify that the annexed document is a true and correct copy of the original on file in this office.

ATTEST: MARKUS B. ZIMMER
Clerk, U.S. District Court
District of Utah

By: 

Deputy Clerk

Date: 5-31-91

DISTRICT OF UTAH

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ROBERT S. CAMPBELL, JR. (0557)
KEVIN EGAN ANDERSON (0099)
CAMPBELL MAACK & SESSIONS
First Interstate Plaza, Suite 400
170 South Main Street
Salt Lake City, Utah 84101
(801) 537-5555

Attorneys for Defendant
Hillcrest Investment Company

RECEIVED

MAY 13 10 07 AM '91
FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

DISTRICT OF UTAH
MAY 09 1991

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
vs. :
 :
70.63 ACRES OF LAND, MORE OR :
LESS, LOCATED IN SUMMIT :
COUNTY, STATE OF UTAH; :
HILLCREST INVESTMENT COMPANY; :
DAVID L. WILKINSON; and ANY :
UNKNOWN OWNERS, :
 :
Defendants. :

JUDGMENT OF
JUST COMPENSATION

Civil No. 89-C-242S

The above-referenced matter, having come on for trial on the issue of just compensation due the landowners for the taking by the government as described in the complaint and declaration of taking on file herein before the Court, the HONORABLE DAVID SAM, United States District Judge presiding, on Monday, April 29, 1991 at the United States Courthouse in Salt Lake City, Utah, Dee Benson, United States Attorney, Stephen Roth, Assistant U. S. Attorney, and Patrick J. Walsh, trial attorney for the U. S. Department of Justice, appearing as counsel for the plaintiff, and

Robert S. Campbell, Jr. and Kevin Egan Anderson of Campbell Maack & Sessions, Salt Lake City, Utah, appearing as counsel for the defendant Hillcrest Investment Company, a Utah limited partnership, and a jury of 12 jurors and one alternate having been empaneled and sworn to try the issue of just compensation.

The Court reconvened on the afternoon of Tuesday, April 30, 1991, and opening statements by counsel were made, whereupon both parties thereafter submitted testimony in their respective cases-in-chief. Witnesses were examined in chief, cross examined, exhibits were introduced and both parties rested their cases at the end of the day on Friday, May 3, 1991 at which time juror William Hawley was excused and alternate juror David Wade was substituted on the panel by stipulation and order of the Court.

On Saturday, May 4, 1991, commencing at approximately 2:00 p.m., the closing arguments were submitted by counsel and the Court charged the jury as to the applicable law. The jury thereupon retired for its deliberations and at approximately 1:10 a.m. on Sunday, May 5, 1991, the jury returned the following verdict into open Court:

"We the Jury, duly empaneled in this case, find the issues of Just Compensation as follows

1. As of March 22, 1988, what was the fair market value of the total property of Hillcrest Investment Company BEFORE the taking by the Government?

ANSWER: 2,867,875.00

2. As of the same date, March 22, 1988, what was the fair market value of the remaining property of

Hillcrest Investment Company AFTER the taking by the Government?

ANSWER: 1,018,245.00

3. Total award of Just Compensation (paragraph 1 minus paragraph 2).

ANSWER: 1,849,630.00

Dated this 5th day of May, 1991.

Kevin P. Bohn
Jury Foreperson

Whereupon the Court directed that the verdict be filed in the case and ordered the entry of judgment forthwith pursuant to Rule 58, Fed.R.Civ.P.

AND, the Court having considered all and singular the law pertaining to the facts as found by the jury in its verdict and that judgment should be accordingly entered, now therefore, good cause appearing,

IT IS ORDERED that judgment be and the same is hereby entered in favor of Hillcrest Investment Company, Utah, Limited partnership, and against the United States of America in the sum of \$1,849,630.00, less the sum of \$486,500.00 tendered and paid by the plaintiff to Hillcrest Investment on March 22, 1988, or in a deficiency and remaining sum of \$1,363,130.00, said latter sum to carry interest as provided by law from March 22, 1988 to the date of this judgment, pursuant to 40 U.S.C. 258 e-1 as amended, and thereafter at the judgment interest rate as prescribed by 28 U.S.C. §1961 until the same is paid and satisfied pursuant to law.

DATED this 5th day of May, 1991.

3 BY ORDER OF THE COURT:

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David M. AM
DAVID M. AM
U.S. District Judge

DATED this _____ day of May, 1991.


BY ORDER OF THE COURT:

DAVID SAM
United States District Judge

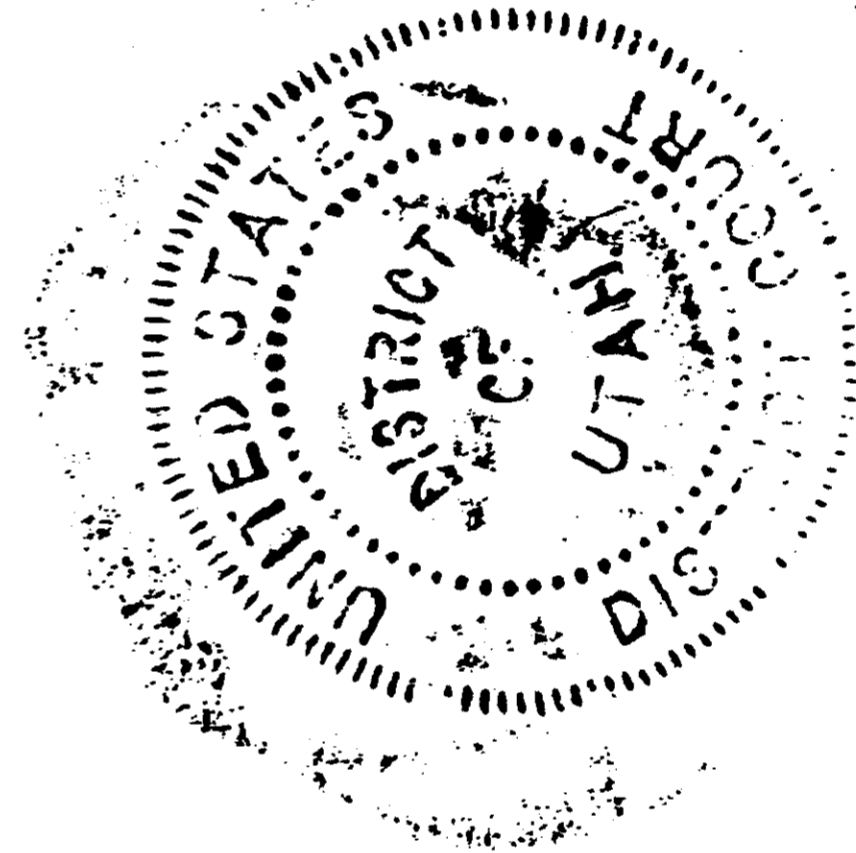
APPROVED AS TO FORM:



STEPHEN ROTH
Assistant United States Attorney



ROBERT S. CAMPBELL, JR.
Attorneys for Defendant Hillcrest
Investment Company



800A 613 PAGE 37

SCHEDULE B

RELOCATION OF U.S. HIGHWAY 40
JORDANELLE DAM AND RESERVOIR
BONNEVILLE UNIT
CENTRAL UTAH PROJECT

Parcels Nos. JDR-Hy-40-19:1:A, Estimated Compensation: \$486,550
19:1:2A, 19:1:3A, 19:1:S,
19:1:2S, and 19:1:ET
(69.75 acres fee title
and .78 of an acre
temporary easement)

Purported Owner

Hillcrest Investment Company, et al.
c/o Charles Horman
1760 South State Street
Salt Lake City, Utah 84115

Estate Taken as to Parcels Nos. JDR-Hy-40-19:1:A, 19:1:2A, 19:1:3A,
19:1:S, 19:1:2S:

The fee simple title to the lands, tenements, hereditaments, and appurtenances thereto belonging, including improvements, but excepting and reserving to the Defendant all water and water rights. Save, excepting and reserving therefrom, subject to the following conditions, the coal, oil, gas, and other subsurface minerals, if any, owned by the Defendant in all of said lands. The right to prospect for and remove the said minerals from all said lands shall be exercised so as not to interfere with the construction, operation, and maintenance of the relocated U.S. Highway 40.

Sand and gravel are not reserved to the Defendant.

Save, excepting and reserving therefrom the coal, oil, gas, and other subsurface minerals reserved to or outstanding in third parties.

Also, subject to existing rights-of-way for roads, railroads, telephone lines, transmission lines, ditches, conduits or pipelines.

In order to construct and maintain a public highway as an expressway, as contemplated by Title 27, Chapter 12, Section 96, Utah Code Annotated, 1953, as amended, the Defendant shall be required to release and relinquish to the United States, or its assigns, any and all rights of ingress to or egress from the Defendant's remaining property contiguous to Parcels Nos. JDR-Hy-40-19:1:A, 19:1:2A, and 19:1:3A.

SCHEDULE B (Continued)

Legal Description:

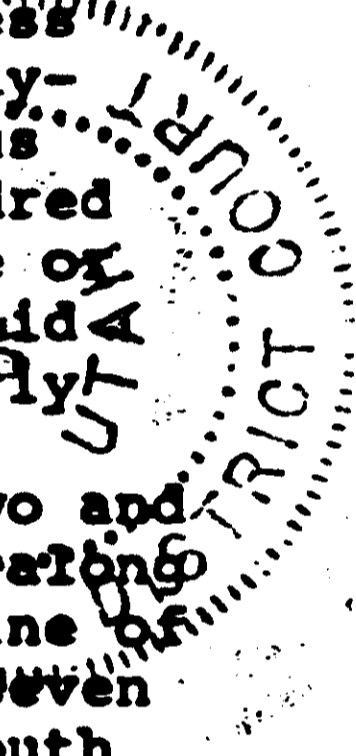
PARCEL NO. JDR-Hy-40-19:1:A (Fee Title)

A parcel of land for an expressway known as Project No. NF-19, being part of an entire tract of property, situate in the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$), the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$), the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$), and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-five (35), Township One (1) South, Range Four (4) East, Salt Lake Base and Meridian, Summit County, Utah, more particularly described as follows:

Beginning at the Northwest corner of said Section 35; thence East (which equals highway bearing South 89°52'46" East) One Hundred Sixty-three and Ninety-four Hundredths (163.94) feet, more or less, along the North Line of said Section 35 to the southwesterly limited-access line of the existing U.S. Highway 40; thence South 30°25'08" East Thirty-four Hundred Eighty-eight and Five Hundredths (3488.05) feet along said southwesterly limited-access line to a point of tangency with a Fifty-eight, Twenty-nine and Fifty-eight Hundredths (5829.58)-foot radius curve to the left; thence southeasterly Sixteen Hundred Ninety-seven and Six Hundredths (1697.06) feet, more or less, along the arc of said curve, which is along said southwesterly limited-access line to the northwesterly right-of-way line of the existing State Highway 249; thence South 35°48'00" West Twelve Hundred Thirty-two and Forty-nine Hundredths (1232.49) feet, more or less, along said northwesterly right-of-way line to the South Line of said Section 35; thence North 89°53'00" West Forty-seven and Fifty-nine Hundredths (47.59) feet along said South Line; thence North 46°13'24" East One Hundred Thirty-four and Fifty-seven Hundredths (134.57) feet; thence North 11°42'39" West Two Hundred Sixty and Four Hundredths (260.04) feet; thence North 0°10'18" East Five Hundred Forty-seven and Ninety-nine Hundredths (547.99) feet to a point One Hundred Twenty (120.0) feet perpendicularly distant westerly from the control line of the South-Bound Off Ramp known as "B" Line for said project at Engineer Station 366+02.04; thence northerly Three Hundred Twenty-eight and Eighty Hundredths (328.80) feet along the arc of a Ten Hundred Twenty-five and Ninety-two Hundredths (1025.92)-foot radius curve to the left (Note: Tangent to said curve at its point of beginning bears North 8°13'22" West); thence North 26°35'08" West Seventy and Ninety-four Hundredths (70.94) feet; thence North

DESCRIPTION CERTIFIED CORRECT

William D. ...
Name
Date



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SCHEDULE B (Continued)

Legal Description (Continued):

30°25'08" West Twenty-three Hundred Twenty-two and Seventy-three Hundredths (2322.73) feet to a point of tangency with a Twenty-three Thousand One Hundred Thirty-eight and Three Hundred Twelve Thousandths (23,138.312)-foot radius curve to the right, opposite Engineer Station 338+32.95; thence northwesterly Twenty Hundred Fifty-five and Ten Hundredths (2055.10) feet along the arc of said curve to the West Line of Salt Section 35; thence North (North 0°13'59" East highway bearing) Two Hundred Thirty-five and Thirty-nine Hundredths (235.39) feet, more or less, along said West Line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel No. JDR-Hy-40-19:1:A contains a total of Forty-nine and Fourteen Hundredths (49.14) acres, more or less.

ALSO,

PARCEL NO. JDR-Hy-40-19:1:2A (Fee Title)

A parcel of land for an expressway known as Project No. NF-19, being part of an entire tract of property, situate in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-five (35), Township One (1) South, Range Four (4) East, Salt Lake Base and Meridian, Summit County, Utah, more particularly described as follows:

Beginning at the intersection of the South Line of said Section 35 and the southeasterly right-of-way line of the existing State Route-248, which point is approximately Twenty-four Hundred Eleven and Fifty-nine Hundredths (2411.59) feet South 89°53'00" East from the Southwest corner of said Section 35; thence North 35°48'00" East Eleven Hundred Forty-nine and Ten Hundredths (1149.10) feet, more or less, along said southeasterly right-of-way line to the southwesterly limited-access line of the existing U.S. Highway 40; thence southeasterly Ten Hundred Sixty-four and Nine Hundredths (1064.09) feet along said southwesterly limited-access line, which is along the arc of a Fifty-eight Hundred Twenty-nine and Fifty-eight Hundredths (5829.58)-foot radius curve to the left to a point Ninety-five and Fifty-one Hundredths (95.51) feet perpendicularly distant southwesterly from the centerline of a highway known as "J" Line for said

SCHEDULE B (Continued)

Legal Description (Continued):

project at Engineer Station 44+80.11 (Note: Tangent to said curve at its point of beginning bears South 48°05'16" East); thence North 86°44'07" West Two Hundred Thirty and Fifty Hundredths (230.50) feet; thence South 79°14'54" West Two Hundred Forty-seven and Seventy-six Hundredths (247.76) feet; thence South 64°30'00" West One Hundred Thirty-four and Thirty-seven Hundredths (134.37) feet; thence southerly Two Hundred Eighteen and Fifteen Hundredths (218.15) feet along the arc of a Nine Hundred Eighty-eight and Eighty-three Hundredths (988.83)-foot radius curve to the right to the South Line of said Section 35 (Note: Tangent to said curve at its point of beginning bears South 23°14'42" East); thence North 89°53'00" West Nine Hundred Ninety-two and Eighty-eight Hundredths (992.88) feet, more or less, along said South Line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel No. JDR-Hy-40-19:1:2A contains a total of Fifteen and Fifteen Hundredths (15.15) acres, more or less.

ALSO,

PARCEL NO. JDR-Hy-40-19:1:3A (Fee Title)

A parcel of land for a highway known as "J" Line incident to the construction of an expressway known as project No. NF-19, being part of an entire tract of property, situate in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-five (35), Township One (1) South, Range Four (4) East, Salt Lake Base and Meridian, Summit County, Utah, more particularly described as follows:

Beginning at the intersection of the South Line of said Section 35 and the northerly limited-access line of the existing U.S. Highway 40, which point is approximately Three Hundred Seven and Ninety-one Hundredths (307.91) feet North 89°53'00" West from the Southeast corner of said Section 35; thence westerly One Hundred Eighty-three and Fourteen Hundredths (183.14) feet, more or less, along said northerly limited-access line, which is along the arc of a Fifty-six Hundred Twenty-nine and Fifty-eight Hundredths (5629.58)-foot radius curve to the right to a point opposite "J" Line Engineer Station 54+00 (Note: Tangent to said curve at its point of beginning bears North 69°34'13" West); thence North 59°29'16" East One Hundred Nineteen and Eighty-six Hundredths (119.86)

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SCHEDULE B (Continued)

Legal Description (Continued):

feet; thence easterly Three Hundred Eighty-two and Eighty-four Hundredths (382.84) feet along the arc of a Fifty-five Hundred Thirty-four and Fifty-eight Hundredths (5534.58)-foot radius curve to the left to said South Line (Note: Tangent to said curve at its point of beginning bears South 68°27'23" East); thence North 89°53'00" West Two Hundred Ninety-three and Thirty-seven Hundredths (293.37) feet, more or less, along said South Line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel No. JDR-Hy-40-19:1:3:A contains a total of Sixty-one Hundredths (0.61) of an acre, more or less.

ALSO,

PARCEL NO. JDR-Hy-40-19:1:S (Fee Title)

A parcel of land situate in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-five (35), Township One (1) South, Range Four (4) East, Salt Lake Base and Meridian, Summit County, Utah, more particularly described as follows:

Beginning at the intersection of the South Line of said Section 35 and the westerly right-of-way line of the existing Union Pacific Railroad, which point is approximately Twelve Hundred Forty-six and Four Hundredths (1246.04) feet North 89°53'00" West from the Southeast corner of said Section 35; thence North 3°51'25" East Two Hundred Ten and Sixty-nine Hundredths (210.69) feet along said westerly right-of-way line to the southwesterly limited-access line of the existing U.S. Highway 40; thence northwesterly One Hundred Seventy-seven and Sixty-six Hundredths (177.66) feet, more or less, along said southwesterly limited-access line, which is along the arc of a Fifty-eight Hundred Twenty-nine and Fifty-eight Hundredths (5829.58)-foot radius curve to the right to a point Ninety-five and Fifty-one Hundredths (95.51) feet perpendicularly distant southwesterly from the centerline of a highway known as "J" Line for Project No. NP-19 at Engineer Station 44+80.11 (Note: Tangent to said curve at its point of beginning bears approximately North 60°17'32" West); thence North 86°44'07" West Two Hundred Thirty and Fifty Hundredths (230.50) feet; thence South 79°14'54" West Two Hundred Forty-seven and Seventy-six Hundredths (247.76) feet; thence South 64°30'00" West One Hundred Thirty-four and Thirty-seven

SCHEDULE B (Continued)

Legal Description (Continued):

Hundredths (134.37) feet; thence southerly Two Hundred Eighteen and Fifteen Hundredths (218.15) feet along the arc of a Nine Hundred Eighty-eight and Eighty-three Hundredths (988.83)-foot radius curve to the right to said South Line (Note: Tangent to said curve at its point of beginning bears South 23°14'42" East); thence East (South 89°53'00" East highway bearing) Six Hundred Seventy and Twenty-one Hundredths (670.21) feet, more or less, along said South Line to the point of beginning, as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel No. JDR-Hy-40-19:1:S contains a total of Four and Fifty-nine Hundredths (4.59) acres, more or less.

PARCEL NO. JDR-Hy-40-19:1:2S (Fee Title)

A parcel of land situate in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-five (35), Township One (1) South, Range Four (4) East, Salt Lake Base and Meridian, Summit County, Utah, more particularly described as follows:

Beginning at the intersection of the South line of said Section 35 and the easterly right-of-way line of the existing Union Pacific Railroad, which point is approximately Ten Hundred Forty-five and Sixty-one Hundredths (1045.61) feet North 89°53'00" West from the Southeast corner of said Section 35; thence North 3°51'25" East One Hundred Five and Thirty-four Hundredths (105.34) feet along said easterly right-of-way line to the southwesterly limited-access line of the existing U.S. Highway 40; thence southeasterly Two Hundred Thirty-seven and Sixty Hundredths (237.60) feet, more or less, along said southwesterly limited-access line, which is along the arc of a Fifty-eight Hundred Twenty-nine and Fifty-eight Hundredths (5829.58)-foot radius curve to the left to said South line (Note: Tangent to said curve at its point of beginning bears approximately South 62°27'26" East); thence North 89°53'00" West Two Hundred Nineteen and Ninety-four Hundredths (219.94) feet, more or less, along said South line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel No. JDR-Hy-40-19:1:2S contains a total of Twenty-six Hundredths (0.26) of an acre, more or less.

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SCHEDULE B (Continued)

Parcels Nos. JDR-Hy-40-19:1:A, 19:1:2A, 19:1:3A, 19:1:S, and 19:1:2S contain a total of Sixty-nine and Seventy-five Hundredths (69.75) acres, more or less.

AND, ALSO,

Estate Taken as to Parcel No. JDR-Hy-40-19:1:ET

A temporary easement upon Parcel No. JDR-Hy-40-19:1:ET for the purpose of constructing thereon a temporary detour road and appurtenant parts thereof incident to the construction of an expressway known as Project No. NF-19.

Said temporary easement shall expire upon the completion of construction of the relocated U.S. Highway 40 and appurtenant parts thereof.

After said detour road is constructed on the above-described part of an entire tract at the expense of the United States or its assigns, the United States or its assigns is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said detour road and appurtenant parts thereof.

Said temporary easement shall be freely transferable and assignable and shall constitute a covenant running with the land, binding upon the heirs, executors, personal representatives, administrators, successors, and assigns of the Defendant for the benefit of the United States, its contractors, employees, agents, and assigns.

Subject to existing rights-of-way for roads, railroads, telephone lines, transmission lines, ditches, conduits, or pipelines.

Also, save, excepting and reserving therefrom all coal, oil, gas, and other mineral rights.

The United States or its assigns, within the temporary easement area, will replace or repair with materials of like kind and equal quality any fences, ditches, pipelines, driveways, or roadways, including appurtenances thereto, existing at the time of imposition of the temporary easement that are damaged or destroyed by construction of the relocated U.S. Highway 40 and appurtenant parts thereof.

The United States or its assigns will, if damage occurs to agricultural crops or livestock within the easement area as a result of construction of the relocated U.S. Highway 40 and appurtenant parts

SCHEDULE B (Continued)

thereof, make payment to the owner thereof on the basis of an appraisal approved by the United States or its assigns.

Legal Description:

PARCEL NO. JDR-Hy-40-19:1:ET

A parcel of land in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Thirty-five (35), Township One (1) South, Range Four (4) East, Salt Lake Base and Meridian, Summit County, Utah, more particularly described as follows:

Beginning in the South Line of said Section 35 at a point Twenty Hundred Forty-eight and Forty-three Hundredths (2048.43) feet South 89°53'00" East from the Southwest corner of said Section 35; thence South 89°53'00" East One Hundred Ninety-two and Forty-six Hundredths (192.46) feet; thence North 46°13'24" East One Hundred Thirty-four and Fifty-seven Hundredths (134.57) feet; thence North 11°42'39" West One Hundred Sixty-six and Twenty-eight Hundredths (166.28) feet; thence South 45°02'17" West Three Hundred Sixty-one and Sixty-two Hundredths (361.62) feet to the point of beginning.

Parcel No. JDR-Hy-40-19:1:ET contains a total of Seventy-eight Hundredths (0.78) of an acre, more or less.

(Note: All highway bearings in the above descriptions are based on the Utah State Plane Coordinate System.)

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800- 471 PAGE 467

HILLCREST INVESTMENT COMPANY

ATTACHMENT NO. 1 TO SCHEDULE B

ALL PERSONS, FIRMS, AND CORPORATIONS KNOWN TO THE PLAINTIFF TO HAVE OR CLAIM AN INTEREST IN THE PROPERTY:

David L. Wilkinson
Attorney General's Office
State Capitol Building
Salt Lake City, Utah 84114

Eugene L. Kimball
1130 Millbrook Way
Bountiful, Utah 84010

Keith Garner
1001 11th Avenue
Salt Lake City, Utah 84103

