

Resolution # TC-17-3-7

R4 PR US 34 Big Thompson Canyon Project Unit 2, Project No. ER 0341-084, Project Code 20279

Approving the Settlement, Certificate of Ascertainment or Verdict amounts, which have been agreed to or ordered for the properties specified below.

Approved by the Transportation Commission on March 16, 2017.

WHEREAS, on September 26, 2016 the Colorado Supreme Court announced its decision in *Department of Transportation v. Amerco Real Estate Company, et al.*, 2016SA75; and

WHEREAS, the *Amerco Real Estate Company* opinion held that the Transportation Commission must decide that the public interest or convenience will be served by a proposed alteration of a state highway and that the Commission's decision must be made in consideration of the portions of land of each landowner to be taken and an estimate of the damages and benefits accruing to each landowner prior to authorizing condemnation of property; and

WHEREAS, the *Amerco Real Estate Company* opinion also held that "the decision whether, and if so precisely how and for how much, to take particular property, for a particular proposed highway alteration project, clearly involves the kind of judgment and discretion that is non-delegable in the absence express statutory authorization." *Amerco Real Estate Company*, 2016SA75, ¶15; and

WHEREAS, the Transportation Commission previously found that the public interest and convenience would be served by the alteration of a State highway, and the acquisition of the properties listed below; and

WHEREAS, the Transportation Commission did enter a resolution upon its minutes approving the proposed highway changes and authorizing the CDOT Chief Engineer either negotiate with the landowners the amount of damages, as estimated by the Chief Engineer or if the Transportation Commission previously approved CDOT to negotiate with the landowners and negotiations failed, the Transportation Commission entered a separate resolution upon its minutes authorizing CDOT to condemn the property pursuant to Sections 38-1-101 *et seq.*, C.R.S.; and

WHEREAS, the Transportation Commission, as part of its non-delegable duties, must now approve the final settlement, ascertainment, or verdict amounts; and

WHEREAS, CDOT shall acquire the following properties for the amounts listed below through either a settlement or the entry of a certificate of ascertainment or verdict;

Property Location	Resolution No. Authorizing Acquisition and/or Condemnation	Approved Chief Engineer's Estimate of Damages and Benefits	Approved and Actual Size of Acquisition	Settlement, Ascertainment or Verdict Amount
Owner: Big Thompson Canyon Flood Memorial, Inc Part of Lot 1, South Fork Subdivision, Larimer County, Colorado (Parcel TE-263)	TC-16-11-14	\$11,200.00	7,459 SF	\$10,850.00
Owner: Wild, Robert 71 Wildbriar Ln., Loveland, CO, 80537 (Parcel RW-250)	TC-16-11-14	\$31,000.00	61,978 SF	\$43,900.00

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby approves the actual size of the acquisitions and the settlement, ascertainment, or verdict amounts listed above.

Herman J. Stockinger III
Herman Stockinger, Secretary
Transportation Commission of Colorado

3-16-17
Date