

16964

Vol. MRV Page 14775

EASEMENT

THIS EASEMENT, dated this 19th day of October, 1982, from the United States of America, acting by and through the Forest Service, Department of Agriculture, hereinafter called Grantor, to Diamond International Corporation, a corporation of the State of Delaware hereinafter called "Grantee,"

WITNESSETH:

WHEREAS, Grantee has applied for a grant of an easement under the Act of October 13, 1964 (78 Stat. 1089; 16 U.S.C. 532-538), for a road over certain lands or assignable easements owned by the United States in the Counties of Deschutes, Jefferson, and Klamath, State of Oregon and administered by the Forest Service, Department of Agriculture.

NOW THEREFORE, Grantor, for and in consideration of reciprocal easements received by Grantor, does hereby grant to Grantee, its successors and assigns, and to successors in interest to any lands now owned or hereafter acquired by Grantee hereinafter collectively referred to as Grantee, subject to existing easements and valid rights, a perpetual easement for a road along and across a strip of land, hereinafter defined as the premises, over and across the following described lands in the Counties of Deschutes, Jefferson, and Klamath, State of Oregon as described on Exhibit A attached hereto.

The word "premises" when used herein means said strip of land whether or not there is an existing road located thereon. Except where it is defined more specifically, the word "road" shall mean roads now existing or hereafter constructed on the premises or any segment of such roads.

The location of said premises is shown approximately on Exhibit B attached hereto.

Said premises shall be 33 feet on each side of the centerline with such additional width as required for accommodation and protection of cuts and fills. If the road is located substantially as described herein, the centerline of said road as constructed is hereby deemed accepted by Grantor and Grantee as the true centerline of the premises granted. If any subsequent survey of the road shows that any portion of the road, although located substantially as described, crosses lands of the Grantor not described herein, the easement shall be amended to include the additional lands traversed; if any land described herein is not traversed by the road as constructed, the easement traversing the same shall be terminated in the manner hereinafter provided.

This grant is made subject to the following terms, provisions, and conditions applicable to Grantee, its permittees, contractors, assignees, and successors in interest:

- ch 80
- A. Except as hereinafter limited, Grantee shall have the right to use the road on the premises without cost for all purposes deemed necessary or desirable by Grantee in connection with the protection, administration, management, and utilization of Grantee's lands or resources, now

or hereafter owned or controlled, subject to such traffic-control regulations and rules as Grantor may reasonably impose upon or require of other users of the road without reducing the rights herein granted: Provided, however, That any timber or other materials hauled by the Grantee from lands now owned by third parties in the agreement area as shown on Exhibit C attached hereto shall be treated as though hauled by someone else. Grantee shall have the right to construct, reconstruct, and maintain roads within the premises.

Grantee's right to use the road shall include, but shall not be limited to, use for the purpose of operating and moving specialized logging vehicles and other equipment subject to the following limitations:

Subject to compliance with legal maximum dimensions and weights of motor vehicles imposed by State law on comparable public roads or highways: Provided, That gross weights of equipment or vehicles shall not exceed the capacity of bridges and other structures, and Provided further, That cleated equipment shall not be used on paved roads.

- B. Grantee shall comply with all applicable State and Federal laws, Executive orders, and Federal rules and regulations, except that no present or future administrative rules or regulations shall reduce the rights herein expressly granted.
- C. Grantee shall have the right to charge and to enforce collections from purchasers of timber or other materials when removed from Grantor's lands over the road at such rate per unit of material hauled, or at such higher rate as may be approved by the Regional Forester, as set forth in Deschutes Road Right-of-Way Construction and Use Agreement dated March 18, 1975, until such time as the amounts paid by such means or by credits received from Grantor shall total the amount set forth in said agreement. Timber or other materials hauled by Grantee from lands of the Grantor shall be regarded as though hauled by someone else.
- D. Grantee shall have the right to cut timber upon the premises to the extent necessary for constructing, reconstructing, and maintaining the road. Timber so cut shall, unless otherwise agreed to, be cut into logs of lengths specified by the timber owner and decked along the road for disposal by the owner of such timber.
- E. The costs of road maintenance shall be allocated on the basis of respective uses of the road.

During the periods when either party uses the road or Grantor permits use of the road by others for hauling of timber or other materials, the party so using or permitting such use will perform or cause to be performed, or contribute or cause to be contributed that share of maintenance occasioned by such use of the road.

On any road maintained by Grantee, Grantee shall have the right to charge purchasers of National Forest timber and other commercial haulers, or to recover from available deposits held by the Grantor for such purchasers or haulers, reasonable maintenance charges based on the ratio that said hauling bears to the total hauling on such road. Grantor shall prohibit noncommercial use unless provision is made by Grantor or by the noncommercial users to bear proportionate maintenance costs.

- F. Grantee shall have the right to require any user of the road for commercial or heavy hauling purposes to post security guaranteeing performance of such user's obligations with respect to maintenance of the road and with respect to payments of any charges hereinabove stated as payable to Grantee for use of the road: Provided, the amount of such security shall be limited to the amount reasonably necessary to secure such payment as approved by the Regional Forester.
- G. If it is customary in the industry in this locality to require liability insurance at the time commercial users are allowed to use the road, the Grantee shall have the right to require any user of the road for commercial hauling to procure, to maintain, and to furnish satisfactory evidence of liability insurance in a form generally acceptable in the trade and customary in this area, insuring said party against liability arising out of its operation on the premises with limits of \$100,000 for injury or death to one person, \$300,000 for injury or death to two or more persons and \$100,000 for damage to property.
- H. The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Regional Forester. Application for such approval must be in writing and specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.

This easement is granted subject to the following reservations by Grantor, for itself, its permittees, contractors and assignees:

- 1. The right to use the road for all purposes deemed necessary or desirable by Grantor in connection with the protection, administration, management, and utilization of Grantor's lands or resources, now or hereafter owned or controlled, subject to the limitations herein contained, and subject to such traffic-control regulations and rules as Grantor may reasonably impose upon or require of other users of the road without reducing the rights herein granted to Grantee: Provided, That all use by the public for purposes of access to or from Grantor's lands shall be controlled by Grantor so as not unreasonably to interfere with use of the road by Grantee or to cause the Grantee to bear a share of the cost of maintenance greater than Grantee's use bears to all use of the road.

2. The right alone to extend rights and privileges for use of the premises to other Government departments and agencies, States, and local subdivisions thereof, and to other users including members of the public except users of land or resources owned or controlled by Grantee or its successors: Provided, That such additional use also shall be controlled by Grantor so as to not unreasonably to interfere with use of the road by Grantee or to cause Grantee to bear a share of the cost of maintenance greater than Grantee's use bears to all use of the road.
3. The right to cross and recross the premises and road at any place by any reasonable means and for any purpose in such manner as will not unreasonably interfere with use of the road.
4. The right to all timber now or hereafter growing on the premises, subject to Grantee's right to cut such timber as hereinbefore provided.

Provided that so long as the Deschutes Road Right-of-Way Construction and Use Agreement dated March 18, 1975 remains in full force and effect, the terms and conditions thereof shall govern all aspects of use of the premises, including, but not limited to construction, reconstruction and maintenance of the road and the allocation and payment of costs thereof.

The Chief, Forest Service, may terminate this easement, or any segment thereof, (1) by consent of the Grantee, (2) by condemnation, or (3) after a five (5) year period of nonuse, by a determination to cancel after notification and opportunity for hearing as prescribed by law; provided the easement, or segment thereof, shall not be terminated for nonuse so long as the road, or segment thereof, is being preserved for prospective future use.

IN WITNESS WHEREOF, The Grantor, by its Regional Forester, has executed this easement pursuant to the delegation of authority to the Chief, Forest Service, 7 CFR 2.60, and the delegation of authority by the Chief, Forest Service, dated December 14, 1979 (44 FR 75690), on the day and year first above written.

UNITED STATES OF AMERICA

R. M. Beeman



Jeff M. Sirmon
Regional Forester
Forest Service
Department of Agriculture

14779

STATE OF Oregon)
COUNTY OF Multnomah) : ss

On the 19th day of October, 1982, before me, a Notary Public within and for said State, personally appeared Robert M. Beeman the same person who executed the within and foregoing instrument, who being by me duly sworn according to law, did say that he executed said instrument for Jeff M. Sirmon, Regional Forester, Forest Service, Department of Agriculture, and that said instrument was signed in behalf of the United States of America by its authority duly given and by him delivered as and for its act and deed. And he did further acknowledge that he executed said instrument as the free act and deed of the United States of America, for the purposes and consideration herein mentioned and set forth, and I do hereby so certify.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

ADA C. DALBY

Notary Public in and for the State of

Oregon
Residing at Portland
My commission expires 11-23-82

EXHIBIT A

NATIONAL FOREST LANDS

JEFFERSON COUNTY

Squawback Block

- (1) Section 7 Spur (1130540 and 1100280)

T. 13 S., R. 10 E., W.M.,
sec. 7, E $\frac{1}{2}$ SE $\frac{1}{4}$

- (2) Spur No. 2 (2050400)

T. 13 S., R. 10 E., W.M.,
sec. 34, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Santiam Block

- (1) Spur (1028910 and 1028900)

T. 13 S., R. 8 E., W.M.,
sec. 34, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$

DESCHUTES COUNTY

Sanitam Block

- (1) Sisters Mainline 1139 (1012500)

T. 14 S., R. 9 E., W.M.,
sec. 36, NE $\frac{1}{4}$ NE $\frac{1}{4}$

- (2) Half Ration No. 1375 (1012300)

T. 14 S., R. 9 E., W.M.,
sec. 22, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

- (3) Spur 1028220

T. 14 S., R. 9 E., W.M.,
sec. 18, SE $\frac{1}{4}$ SW $\frac{1}{4}$

- (4) 1315A Spur (2061270)

T. 14 S., R. 9 E., W.M.,
sec. 8, W $\frac{1}{2}$ NW $\frac{1}{4}$

(5) Road No. 1528F (1510600)

T. 15 S., R. 9 E., W.M.,
sec. 10, NW $\frac{1}{4}$ NW $\frac{1}{4}$

(6) Road No. (1014000)

T. 14 S., R. 8 E., W.M.
Sec. 14, SE $\frac{1}{4}$ SE $\frac{1}{4}$

(7) Road No. 1492 (1028260)

T. 14 S., R. 9 E., W.M.
Sec. 18, S $\frac{1}{2}$ S $\frac{1}{2}$

Bull Springs Block(1) Sisters Mainline No. 1139 (4606000)

T. 18 S., R. 11 E., W.M.,
sec. 3, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$
sec. 4, E $\frac{1}{2}$ NE $\frac{1}{4}$

(2) Spur A (4606400)

T. 17 S., R. 11 E., W.M.,
sec. 6, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$
sec. 7, W $\frac{1}{2}$ NW $\frac{1}{4}$

(3) Spur C (4607100)

T. 17 S., R. 11 E., W.M.,
sec. 8, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$
sec. 7, SE $\frac{1}{4}$ SE $\frac{1}{4}$

(4) Spur D (4606280)

T. 17 S., R. 11 E., W.M.,
sec. 17, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$

(5) 600 Line (4607000)

T. 17 S., R. 11 E., W.M.,
sec. 7, N $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$
sec. 8, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$

(6) 700 Line (4605000)

T. 17 S., R. 11 E., W.M.,
sec. 21, SW $\frac{1}{4}$ SW $\frac{1}{4}$

(7) Columbia Southern Spur

T. 18 S., R. 10 E., W.M.,
sec. 1, NW $\frac{1}{4}$ SW $\frac{1}{4}$
sec. 2, NE $\frac{1}{4}$ SE $\frac{1}{4}$

(8) Tumalo Lake Spur (4601430)

T. 18 S., R. 10 E., W.M.,
sec. 10, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$

(9) Tumalo Creek Spur (4606060)

T. 18 S., R. 11 E., W.M.,
sec. 4, S $\frac{1}{2}$ NE $\frac{1}{4}$
sec. 5, NE $\frac{1}{4}$ SE $\frac{1}{4}$

(10) Bear Wallow No. 1750 (4601000)

T. 18 S., R. 10 E., W.M.,
sec. 10, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$

That certain easement, 44 feet in width, acquired from Don O. Schuman, Marilyn R. Schuman, Larry M. Keown, Louise R. Keown, and Helen S. Peak, by deed dated June 6, 1966, recorded June 20, 1966, in Volume 149, page 149, records of Deschutes County, Oregon, over and across the following described lands:

T. 18 S., R. 10 E., W.M.,
sec. 10, W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$

That certain easement, 44 feet in width, acquired from Harry D. Schermerhorn, Juanita Jean Schermerhorn, Larry M. Keown, Louise R. Keown, and Helen Peak, by deed dated May 20, 1966, recorded June 20, 1966, in Volume 149, page 154, records of Deschutes County, Oregon, over and across the following described lands:

T. 18 S., R. 10 E., W.M.,
sec. 10, E $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$

That certain easement, 44 feet in width, acquired from W.C. Coyner and Ruth C. Coyner, by deed dated June 20, 1966, recorded June 20, 1966, in Volume 149, page 146, records of Deschutes County, Oregon, over and across the following described lands:

T. 18 S., R. 10 E., W.M.,
sec. 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$
sec. 10, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$

KLAMATH COUNTY

Spring Butte Block(1) Road No. 2217 (2220900)

T. 24 S., R. 11 E., W.M.
sec. 17, W $\frac{1}{2}$ SW $\frac{1}{4}$
sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$

14783

(2) Road No. 233 (2430000)

T. 24 S., R. 11 E., W.M.,
sec. 6, Lots 10 and 13

(3) Road No. 2210 (2220000)

T. 24 S., R. 11 E., W.M.
sec. 17, S $\frac{1}{2}$ S $\frac{1}{2}$

14784

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2730 R/W GRANTS

EXHIBIT B
RIGHT-OF-WAY PLATS

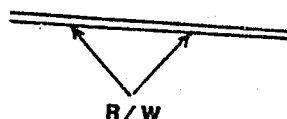
U.S. FOREST SERVICE
DEPT. of AGRICULTURE
DESCHUTES NATIONAL FOREST

DESCHUTES, JEFFERSON & KLAMATH COUNTIES

ROAD EASEMENTS
TO
DIAMOND INTERNATIONAL CORPORATION

LEGEND

RIGHT-OF-WAY GRANTED



R/W 33 ft
Each Side Of
Center Line

OWNERSHIP

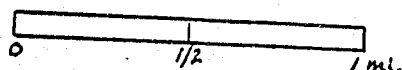
NATIONAL FOREST

US

DIAMOND INTERNATIONAL CORPORATION

D

OTHER P

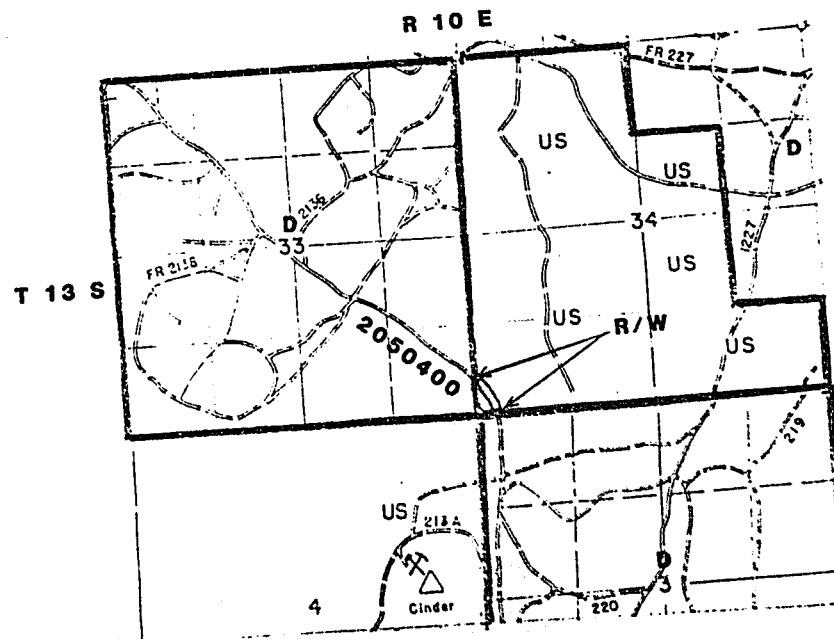
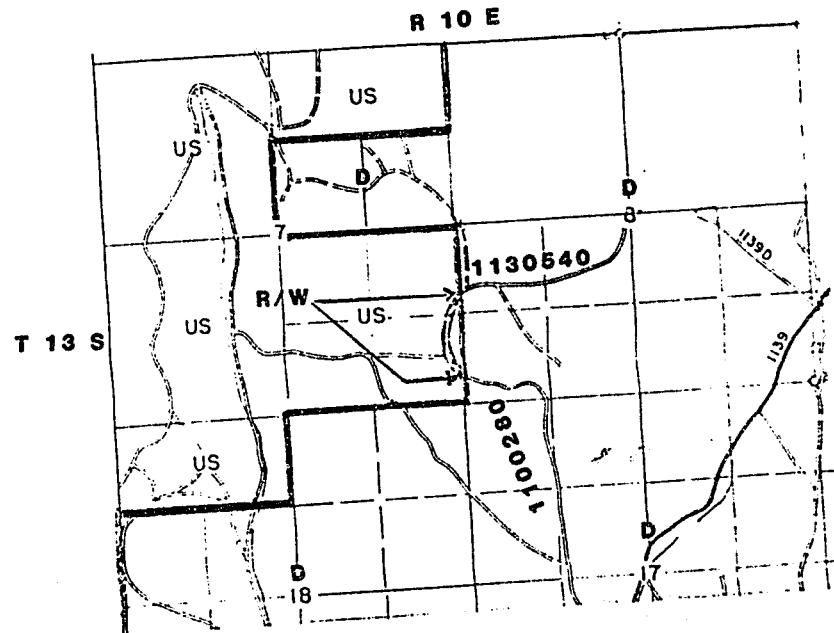


SCALE

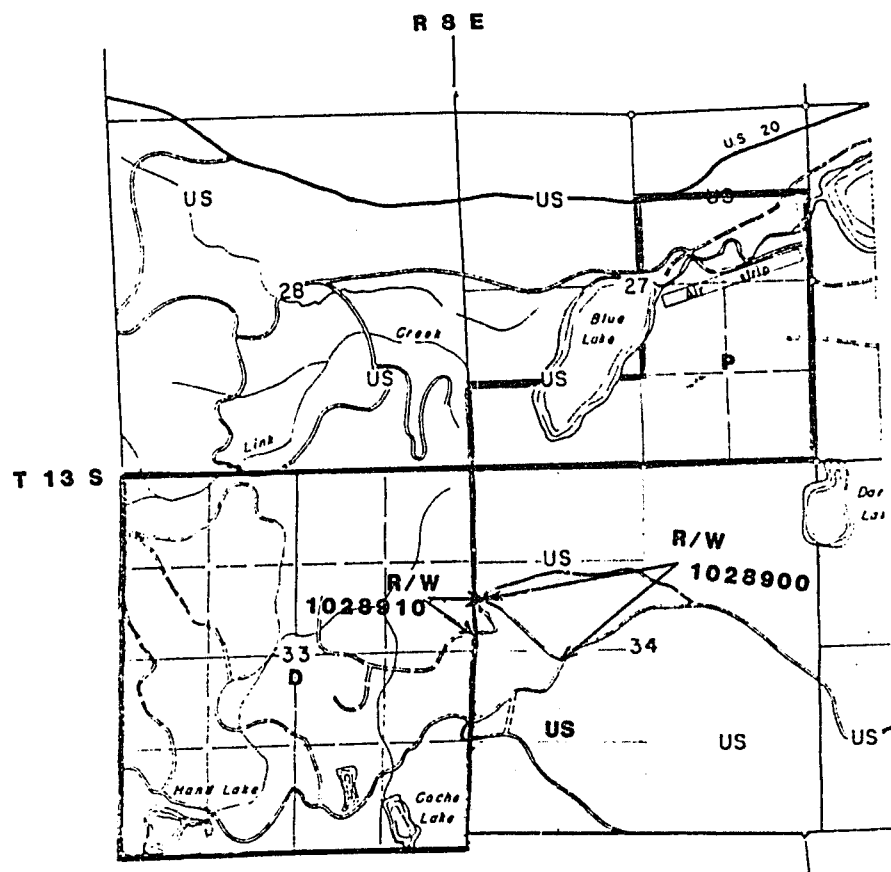
3/81 KRM

SQUAWBACK BLOCK

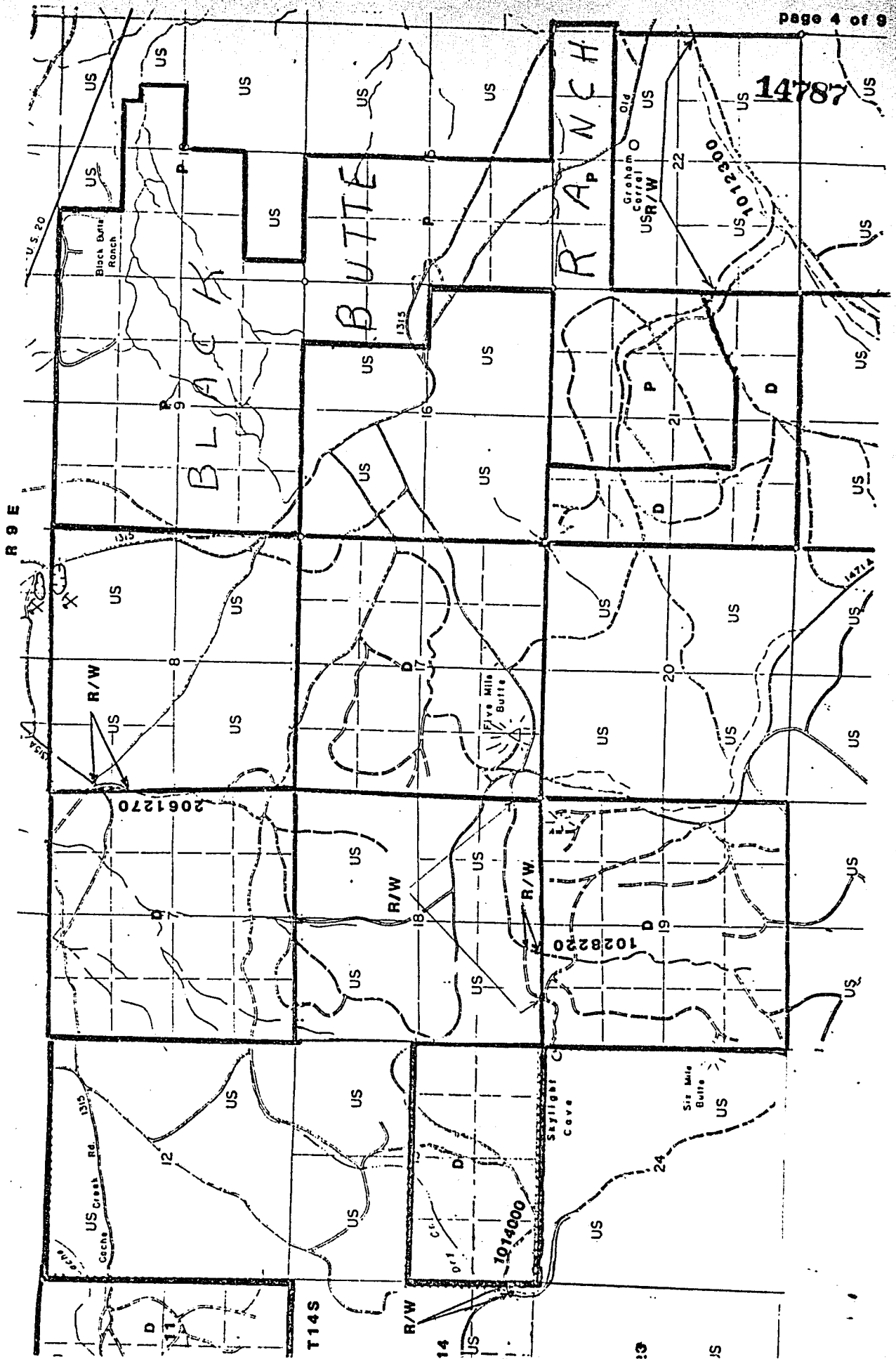
14785



SANTIAM BLOCK



SANTIAM BLOCK

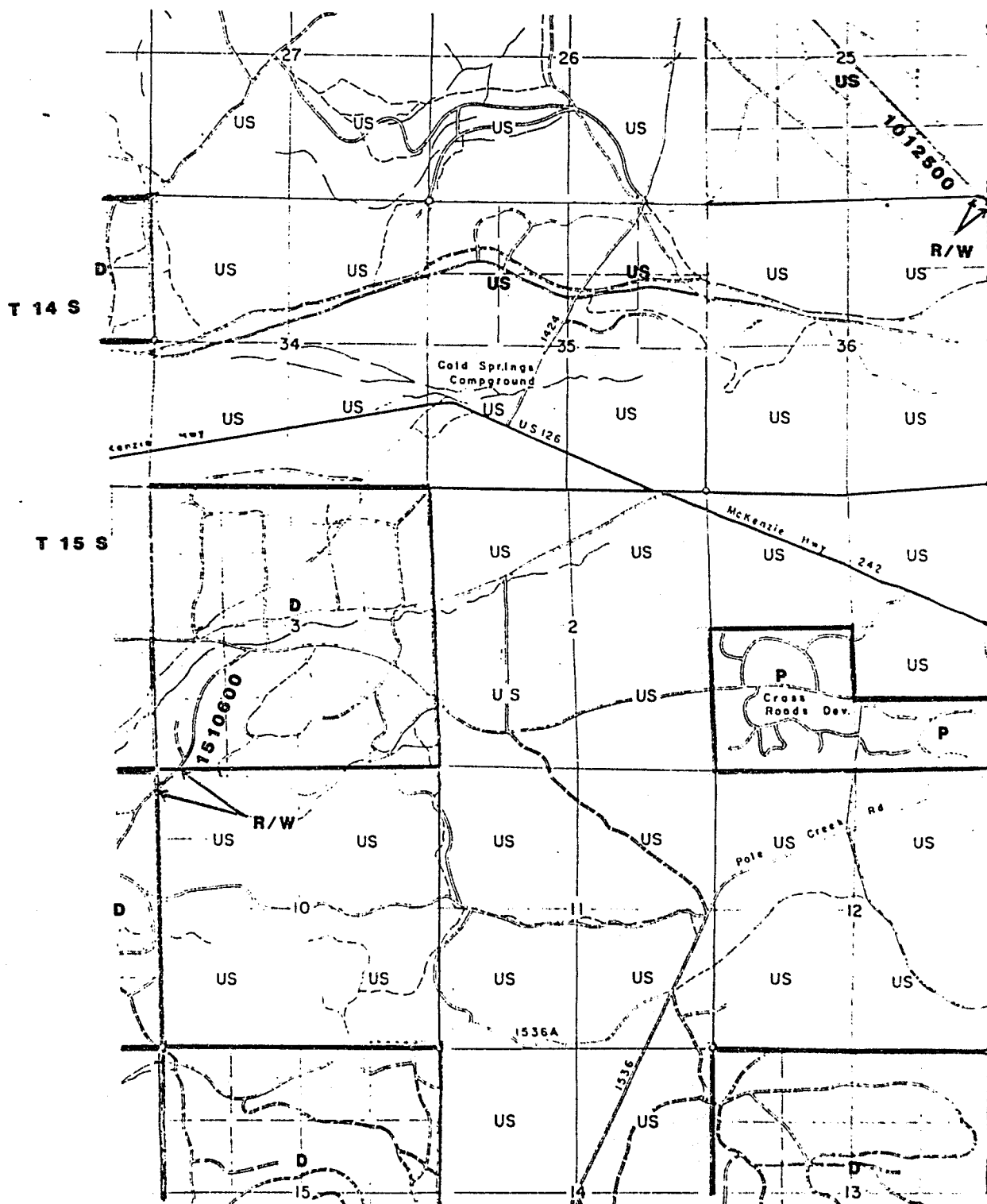


SANTIAM BLOCK

14788

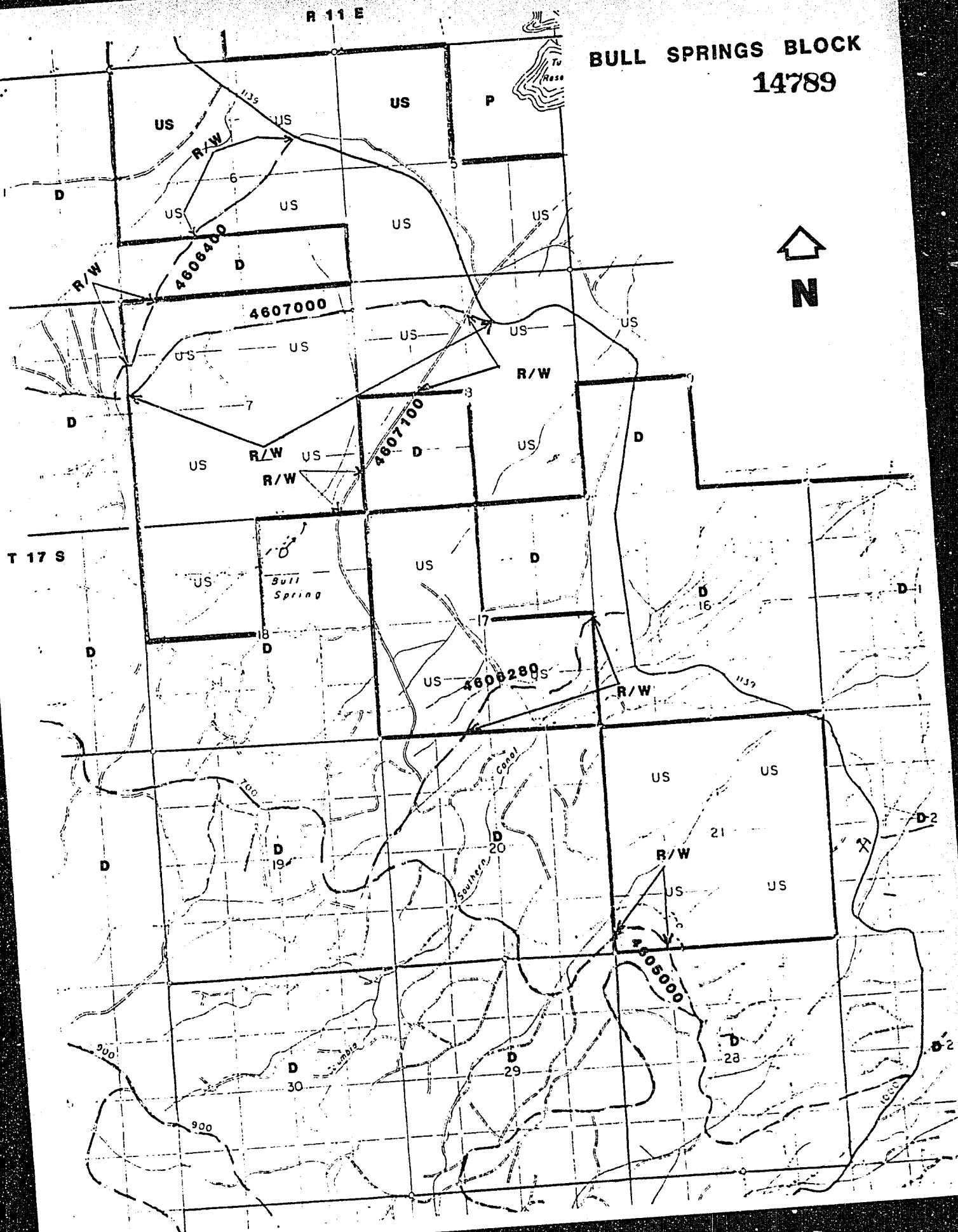


R 9 E



R 11 E

BULL SPRINGS BLOCK 14789

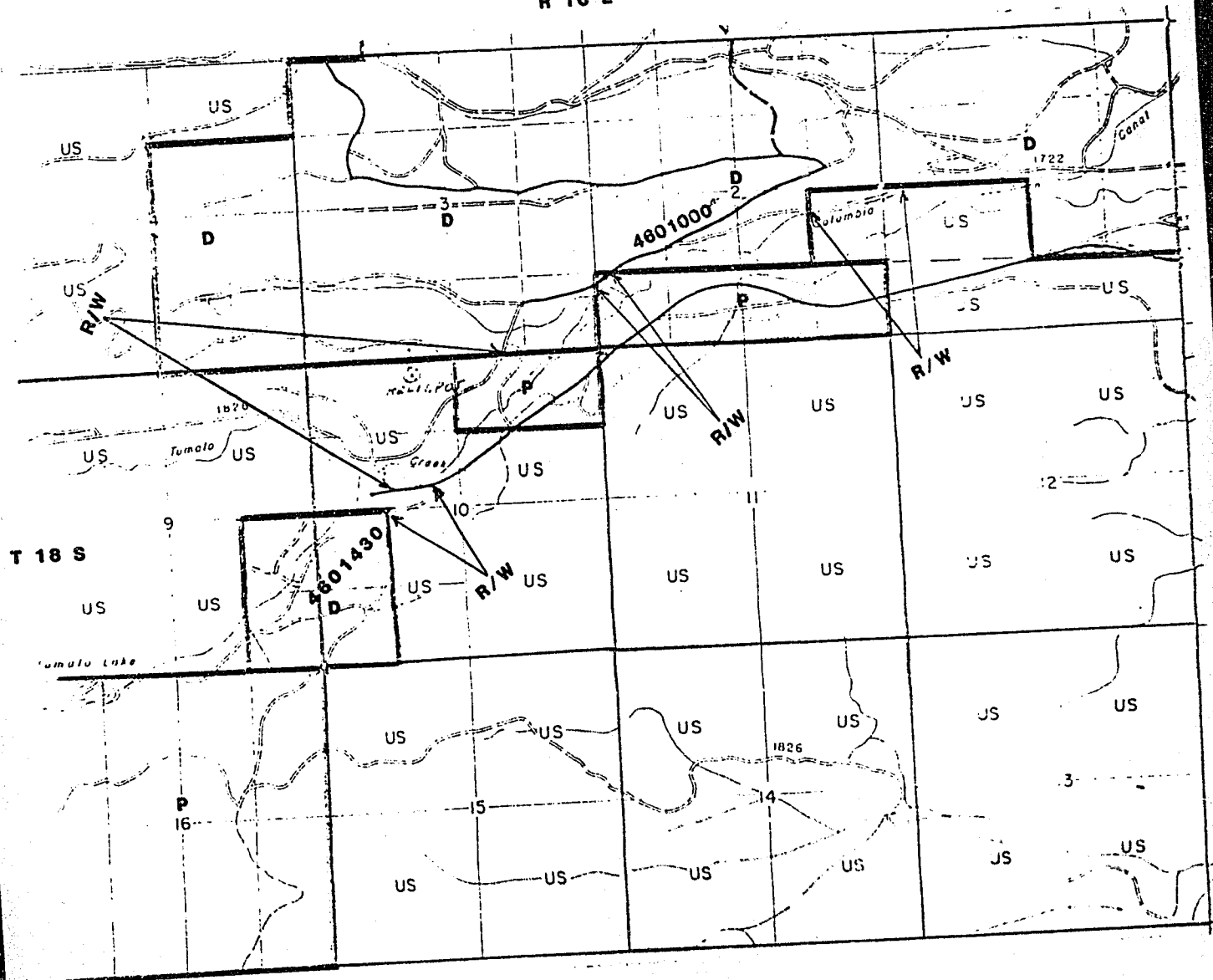


BULL SPRINGS BLOCK

14790

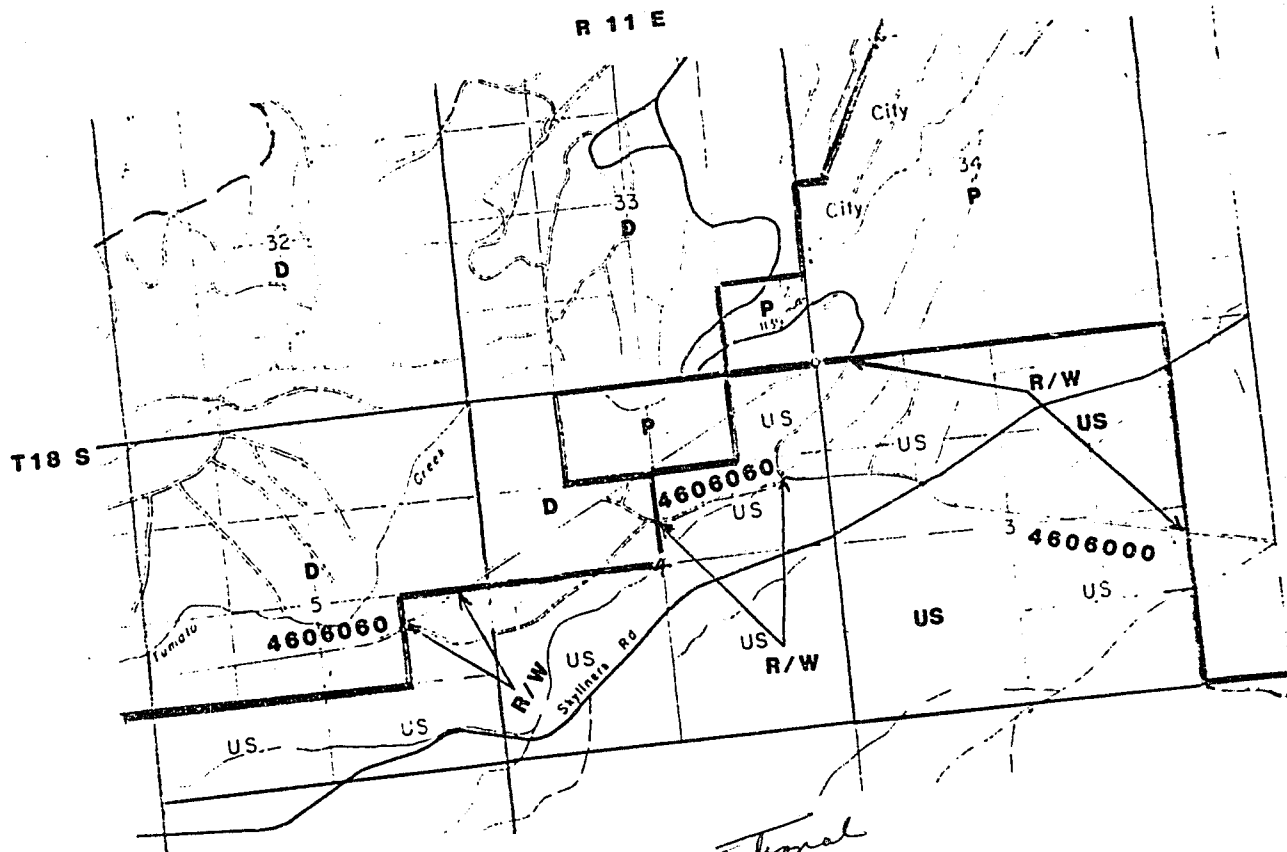


R 10 E



14791

BULL SPRINGS BLOCK



PO Diamond International
Box 458 E 17th St.
Costa Mesa, Cal 92627

ROAD RIGHT-OF-WAY CONSTRUCTION

AND USE AGREEMENT 3/18/75 AS AMENDED 1980

BETWEEN

BROOKS SCANLON, INC. AND USA

(SHARECOST)

LEGEND



National Forest



Diamond International Corporation



Other Ownership



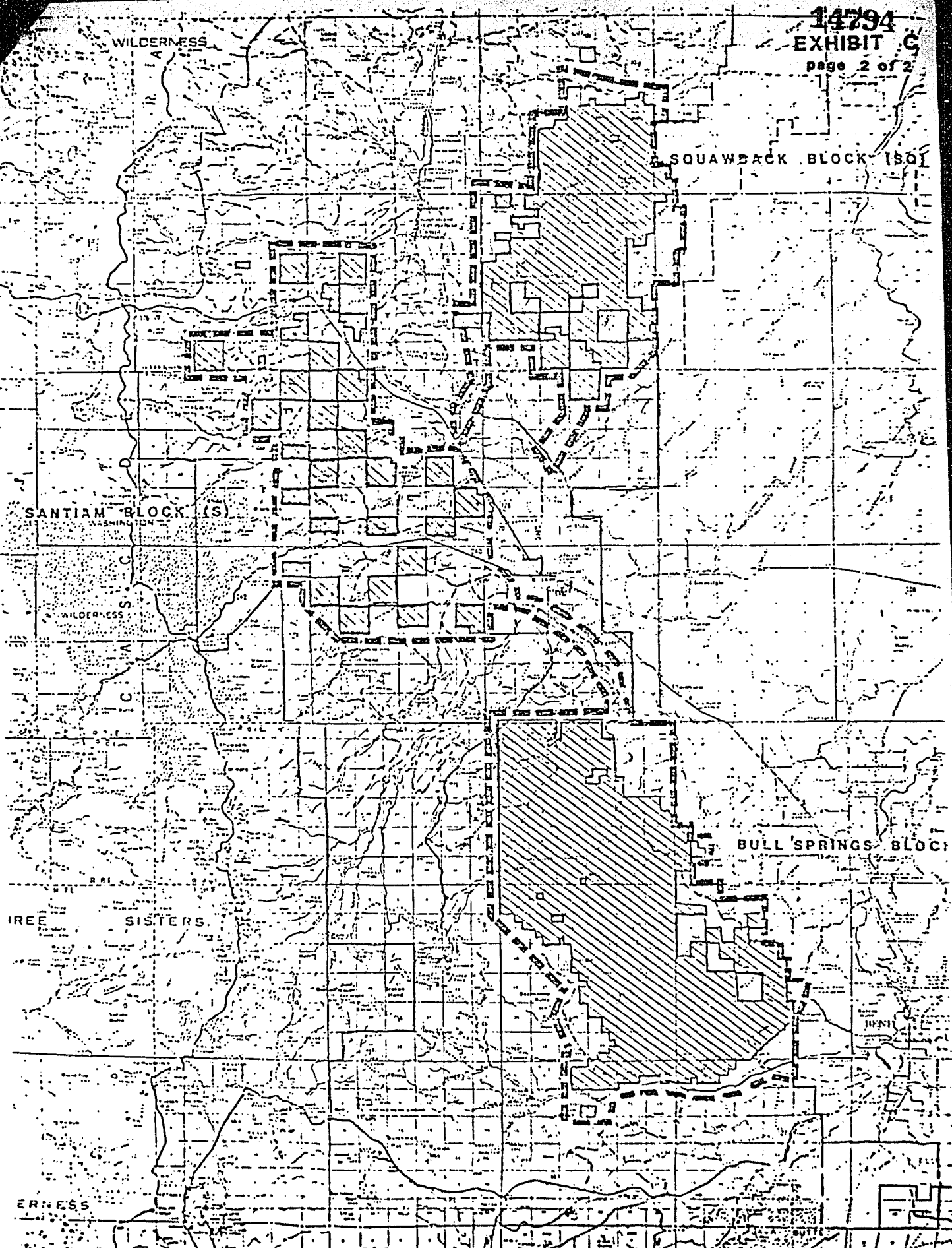
Amended Agreement Area

SPRING BUTTE BLOCK (SB)

14794

EXHIBIT C

page 2 of 2



STATE OF OREGON; COUNTY OF KLAMATH; ss

I hereby certify that the within instrument was received and filed for
 record on the 8 day of Nov A.D., 19 82 at 9:15 o'clock A M
 and duly recorded in Vol M82, of Deeds on page 14775

FEE \$ 80.00

EVELYN BIRHN COUNTY CLERK
 by [Signature] Deputy