

21614

Vol 90 Page 21049

EASEMENT EXCHANGE

THIS AGREEMENT, made and entered into this 16th day of August, 1983, by and between WEYERHAEUSER COMPANY, a Washington corporation, herein called "Weyerhaeuser," and BETH LOWENBACH, herein called "Lowenbach," WITNESSETH:

I.

A. Lowenbach hereby grants and conveys to Weyerhaeuser a perpetual easement upon, over and along rights of way sixty (60) feet in width over and across the following described lands in Klamath County, Oregon:

SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 23 - T37S-R14E, W.M.

being thirty (30) feet on each side of the centerlines of the roads located approximately as shown in red on the attached "Exhibit A."

Subject as to said lands to all matters of public record.

B. Weyerhaeuser hereby grants and conveys to Lowenbach a perpetual nonexclusive easement upon, over and along rights of way sixty (60) feet in width over and across the following described lands in Klamath County, Oregon:

NE $\frac{1}{4}$ SW $\frac{1}{4}$: SE $\frac{1}{4}$ SW $\frac{1}{4}$

Section 23 - T37S-R14E, W.M.

being thirty (30) feet on each side of the centerline of the road located approximately as shown in green on the attached "Exhibit A."

Subject as to said lands to all matters of public record.

II.

The parties hereto hereby agree that the rights hereinabove granted by one party hereto to the other shall be subject to the following terms and conditions:

1. The easements are conveyed for the purposes of construction, reconstruction, use and maintenance of a road for the purpose of providing ingress to and egress from lands now owned, or hereafter acquired, by the parties hereto.

2. Each party hereto reserves for itself the right at all times and for any purpose to go upon, cross and recross, at any place on grade or otherwise, said right of way on lands owned by it and to use the road on said right of way in a manner that will not

unreasonably interfere with the rights granted to the other party hereunder.

3. Weyerhaeuser may grant to third parties, upon such terms as it chooses, any or all of the rights granted to it or reserved by it herein; provided, that use by such party shall be subject to the terms and conditions of this agreement and shall not unreasonably interfere with the rights granted to or reserved by Lowenbach hereunder.

4. Each party hereto may permit its respective employees, contractors, licensees, purchasers of timber or other valuable materials, and their agents, hereinafter referred to as "Permittees," to exercise the rights granted to it herein.

5. The cost of road maintenance and resurfacing shall be allocated on the basis of respective uses of said road. When any party uses said road, or any portion thereof, that party shall perform or cause to be performed, or contribute or cause to be contributed, that share of maintenance and resurfacing occasioned by such use as hereinafter provided. During periods when said road or any portion thereof is being used solely by one party, such party shall maintain that portion of said road so used to the standards existing at the time use commenced. During periods when more than one party is using the said road, or any portion thereof, each party's share of the cost of maintenance shall be pro rata in proportion to its use thereof.

For purpose of this agreement, maintenance is defined as the work normally necessary to preserve and keep the roadway, road structure and road facility as nearly as possible in their present condition or as hereafter improved.

6. Each party using any portion of said road shall repair, or cause to be repaired at its sole cost and expense, that damage to said road occasioned by it which is in excess of that which it would cause through normal and prudent usage of said road. Should inordinate damage to said road occur which is not caused by an authorized user of said road, the parties hereto shall meet to agree upon the cost of replacement, the party to undertake the replacement, and the shares of replacement cost to be borne by each user of said road.

7. Unless the parties hereto agree in writing to share the costs of improvements in advance of such improvements being made, such improvements shall be solely for the account of the improver.

8. Each party hereto reserves to itself all timber now on or hereafter growing within the rights of way on its said lands.

9. It is understood and agreed by the parties hereto that:

(a) Neither party has made any representation as to the present or future condition of its property or the character of the traffic on any of its roads, and each road user in connection with the exercise of any rights hereunder, assumes all risk of damage to its property or injury to persons, which damage or injury arises out of or is related to the condition of the road owner's property or the character of the traffic on such road.

(b) When exercising rights hereunder, the road user shall be liable for all damage to the road owner's property or injury to persons resulting directly or indirectly from the negligent act or omission of the road user, its agents, contractors and permittees exercising such rights.

(c) Each party shall protect, indemnify and hold the other harmless against all claims or liability asserted by third persons, whether such claims or liability result directly or indirectly from the responsible party's acts or omissions hereunder, whether negligent or otherwise.

10. This agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of each of the parties hereto.

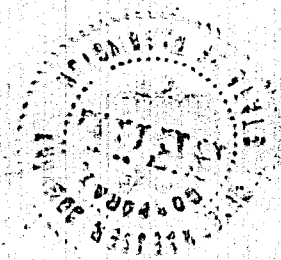
IN WITNESS WHEREOF, the parties hereto have executed this instrument, in duplicate, as of the day and year first above written.

WISYERHAEUSER COMPANY

Beth S. Lowenbach
BETH LOWENBACH

By: Don Wilson
Forest Land Use Manager

Attest: Robert J. Jorgensen
Assistant Secretary



21052

GIENGER ENTERPRISES, INC., an Oregon corporation, hereby subordinates its lien interest by virtue of that certain Real Estate Contract, recorded in Vol. M83, Page 11724, Microfilm Records of Klamath County, Oregon, to the easement rights hereinabove granted to Weyerhaeuser Company

By: Alyson CasperTitle: Trustee

By: _____

Title: _____

STATE OF WASHINGTON)
COUNTY OF KING) ss.

On this 17th day of August, 1988, before me personally appeared D. W. Wilbur and Robert N. Mogensen, to me known to be the Forest Land Use Manager and Assistant Secretary, respectively, of WEYERHAEUSER COMPANY, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

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



G. V. Bierke
Notary Public in and for the State of Washington.
My Appointment expires: March 20, 1992

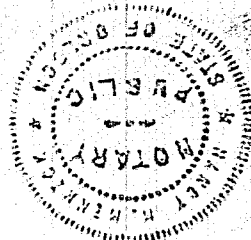
21053

STATE OF Oregon)
COUNTY OF Klamath) ss.

On this 12th day of October, 1990, before me personally appeared BETH LOHENBACH, to me known to be the individual described in, and who executed the above and foregoing instrument and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

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

Nancy M. Merrill
Notary Public in and for the State of
Oregon
My Appointment expires: 6-8-92



STATE OF Oregon)
COUNTY OF Klamath) ss.

On this 12th day of October, 1990, before me personally appeared Alyson Casey and _____, to me known to be the Trustee and _____, respectively, of GIENGER ENTERPRISES, INC., the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

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

Nancy M. Merrill
Notary Public in and for the State of
Oregon
My Appointment expires: 6-8-92



Return: Beth Lowenbach
P.O. Box 3283
Central Point, Or. 97502

EXHIBIT A

21054

L.C., Aug., 1988

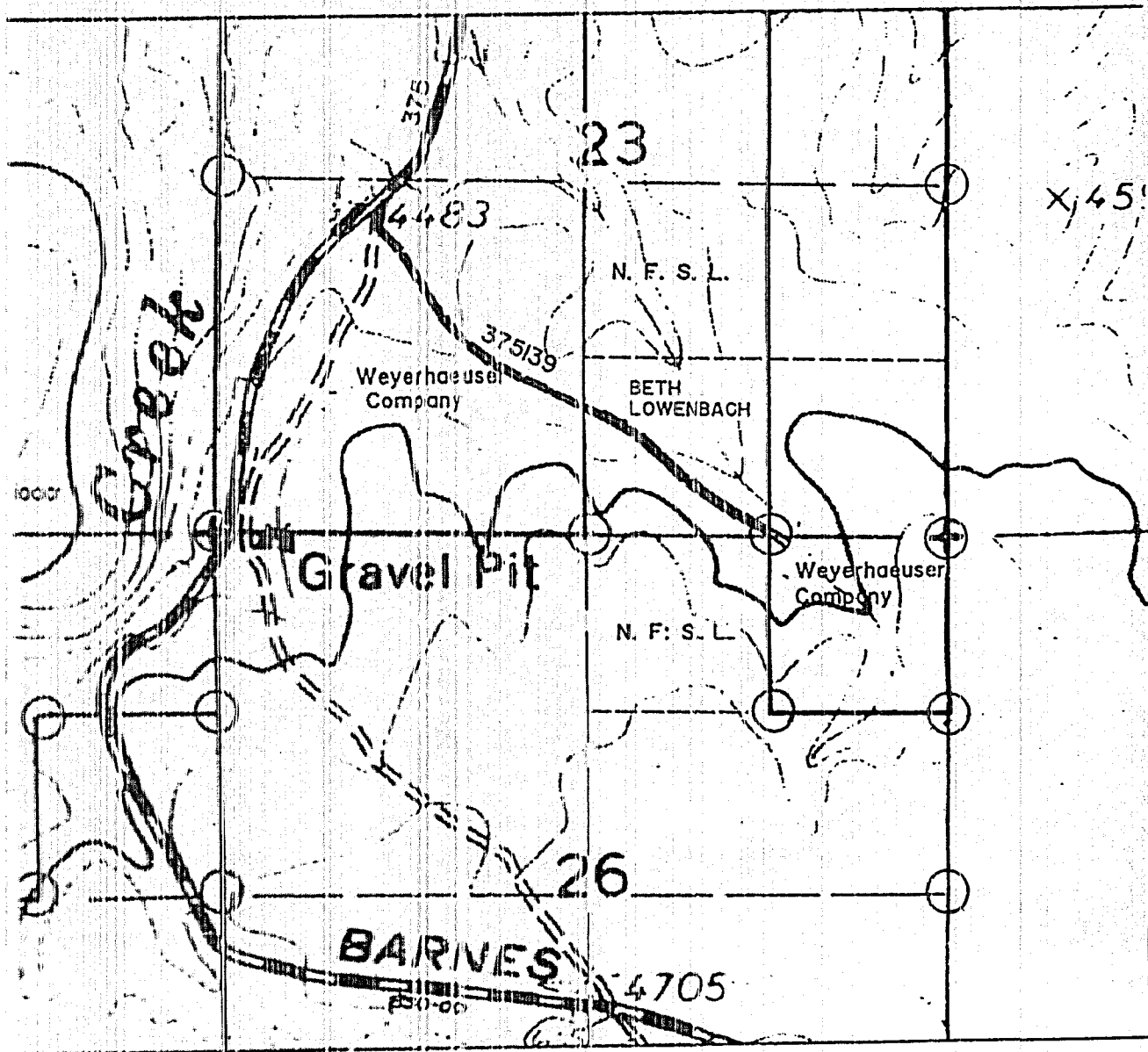


EXHIBIT A

Section 23, Township 37 South, Range 14 East, W.M.
Klamath County, Oregon

Easement (Lowenbach to Weyerhaeuser) ~~_____~~
Easement (Weyerhaeuser to Lowenbach) ~~_____~~

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Beth Lowenbach the 19th day
of Oct. A.D., 19 90 at 9:39 o'clock A.M., and duly recorded in Vol. M90,
of Deeds on Page 21049

FEE: \$53.00

Evelyn Biehn, County Clerk
By Douglas Mulender