

33478

Vol. m91 Page 16524
Highway Division
File 6068-027
RS-103(2)

ORIGINAL

HIGHWAY EASEMENT DEED

THIS DEED, made this 31st day of July, 1991, by and between The UNITED STATES OF AMERICA, acting by and through the DEPARTMENT OF TRANSPORTATION, Federal Highway Administration, hereinafter referred to as "Department", and the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, hereinafter referred to as "Grantee":

WITNESSETH:

WHEREAS, Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317) for the right-of-way of a highway over certain land owned by the United States in the State of Oregon, which is under the jurisdiction of the Department of Agriculture - Forest Service, and

WHEREAS, this transfer is further authorized under the provisions of the Act of Congress approved October 15, 1966 (80 Stat. 931, 937, Section 6 (a)(1)(A)).

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for Crater Lake Highway No. 62 (State Hwy. 22), and

WHEREAS, the Department of Agriculture, acting by and through the Forest Service, has agreed to the transfer by the Department of an easement over the land to the Grantee;

NOW THEREFORE, the Department as authorized by law, does hereby grant to the Grantee an easement for right-of-way for the reconstruction, operation and maintenance of a highway, and use of the space above and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described land of the United States within the Winema National Forest, County of Klamath, State of Oregon:

Sections 25 and 36, Township 32 South, Range 6 East, W.M., (subject to survey) as shown on four (4) sheets of right-of-way plats, marked Exhibit A, attached hereto and made a part hereof, subject however, to the following terms and conditions:

- (1) Outstanding valid claims, if any, existing on the date of this grant, and the Grantee shall obtain such permission as may be necessary on account of any such claims.

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- (2) The Grantee and the Forest Service shall make determination as to the necessity for archeological and paleontological reconnaissance and salvage within the right-of-way, and such reconnaissance and salvage to the extent determined necessary because of construction of the highway facility is to be undertaken by Grantee in compliance with the act entitled "An Act for the Preservation of American Antiquities," approved June 8, 1906, (34 Stat. 225, 16 U.S.C. 432-433), the Archaeological Resources Protection Act of 1979 (93 Stat. 721, 16 U.S.C. 470aa-47011), and State laws where applicable.
- (3) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of reconstruction, operation and maintenance of a highway in accordance with the approved plans described in the following condition number 4, and does not include the grant of any rights for nonhighway purposes or facilities: Provided, That the right of the Forest Service to use or authorize the use of any portion of the right-of-way for nonhighway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Grantee and the Federal Highway Administration shall be consulted prior to the exercise of such rights; and Provided further, That nothing herein shall preclude the Forest Service from locating National Forest and other Department of Agriculture information signs on the portions of the right-of-way outside of construction clearing limits, except that such signs shall not be located on the right of way of an Interstate system.
- (4) The design and construction of highway project situated on this right of way will be in accordance with the provisions of Title 23, United States Code--Highways, and amendments; the regulations for the Administration of Federal Aid for Highways, effective May 11, 1960; and amendments and established procedures for Federal-aid projects, including the requirements of Title 23, Code of Federal Regulations, part 771, and the construction specifications of the State Highway Department as approved by the Federal Highway Administration for use on Federal-aid projects.

The Forest Service will be provided an opportunity to review plans relative to effects, if any, that the project works as planned will have upon adequate protections and utilization of the land traversed by the right of way and adjoining land under the administration of the Forest Service for the purposes for which such land is being administered. Those features of design, construction, and maintenance of the highway facility and of use of the Right of Way that would have effect on the protection and utilization of the land under the administration of the Forest Service are to be mutually agreed upon by the Forest Service and Grantee by conference or other communication during the preparation of the plans and specifications for each construction project, and

the plans shall be revised, modified, or supplemented to meet the approval of the Forest Service or when deemed appropriate, supplemented by written stipulation between the Forest Service and the Grantee, prior to the start of construction or reconstruction.

The final design and the construction specifications for any highway construction project on the right-of-way will be presented to the Regional Forester for his approval and construction shall not begin until such approval is given; Provided, That if it is subsequently deemed necessary that the approved plans, specifications, or stipulations be amended or supplemented, any amendment or supplement shall be approved by the Regional Forester and the Grantee before being placed in effect.

- (5) Consistent with highway safety standards, the Grantee shall:
 - (a) Protect and preserve soil and vegetative cover and scenic and esthetics values on the right-of-way outside of construction limits.
 - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary during a joint review between the Regional Forester and the Grantee, prior to completion of the highway and the Grantee shall maintain all terracing, waterbars, lead-off ditches or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
- (6) The Grantee shall establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way unless shown on approved construction plans, without first obtaining approval of the Forest Service.
- (7) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Forest Service. 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.

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IN WITNESS WHEREOF, I, Robert B. Rutledge, Regional Counsel, pursuant to delegations of authority from the Secretary of Transportation, the Federal Highway Administrator, the Regional Federal Highway Administrator, and Chief Counsel, Federal Highway Administration, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

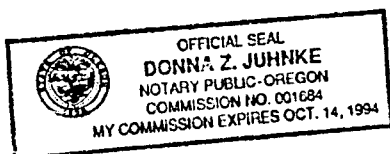
UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By Robert B. Rutledge
Robert B. Rutledge, Regional Counsel

STATE OR OREGON)
COUNTY OF MULTNOMAH)

I, Donna Z. Juhnke, a Notary Public in and for the State of Oregon, do hereby certify that on this 31st. day of July, 1991, before me personally appeared Robert B. Rutledge, Regional Counsel, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of July 31, 1991, was executed by him in his official capacity and by authority in him vested by law, for the purposes and intents in said instrument described and set forth, and acknowledged the same to be his free act and deed as Regional Counsel, Federal Highway Administration.

Witness my hand and seal this 31st. day of July, 1991.



Donna Z. Juhnke
Notary Public for Oregon
My Commission expires October 14, 1994

In compliance with the conditions set forth in the foregoing deed, the Grantee certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns, forever to abide by the conditions set forth in said deed.

APPROVED AS TO LEGAL SUFFICIENCY

Dale K. Holman
Assistant Attorney General

Date June 27, 1991

STATE OF OREGON, by and through its DEPARTMENT
OF TRANSPORTATION Highway Division

By Steven Green
Steven Green, Right of Way Manager

STATE OF OREGON, County of Marion

August 6, 1991. Personally appeared Steven Green, who being sworn, stated that he is the Right of Way Manager for the State of Oregon, Department of Transportation, Highway Division, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to him. Before me:

Lacey Wilson
Notary Public for Oregon

My Commission expires 8-28-93

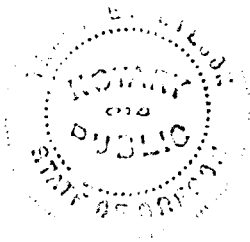


EXHIBIT A

RIGHT OF WAY GRANT

OREGON STATE HIGHWAY DIVISION

Located Line

CRATER LAKE BOUNDARY - FT. KLAMATH SEC.

CRATER LAKE HIGHWAY

PROJECT NO. RS-103(2)

FILE NO. R6068027

KLAMATH COUNTY, OREGON

JUNE, 1990

RIGHT OF WAY PLATS

U.S.D.A.
FOREST SERVICE
PACIFIC NORTHWEST REGION
WINEMA NATIONAL FOREST

1983 GRID BEARINGS-SOUTH ZONE

NOTE: COORDINATES USED ON THIS MAP ARE ON A
LOCAL DATUM PLANE WHICH REPRESENTS TRUE GROUND
DISTANCES. TO CONVERT LDP COORDINATES TO THE OREGON
COORDINATE SYSTEM OF 1983, GRID SOUTH ZONE, MULTIPLY
LDP COORDINATES BY 0.999720798.

THIS DRAWING WAS PREPARED FROM AN OREGON STATE
HIGHWAY DIVISION SURVEY CONTRACTED BY
OBEC CONSULTING ENGINEERS, EUGENE, OR.

LEGEND

- Township or Range Line
- Section Line
- Quarter Section Line
- Sixteenth Section Line
- Existing Right of Way or Property Line
- Access Control Line
- Proposed Right of Way Line
- Top of Cut Slope
- Toe of Fill Slope
- ⊙ Access Point
- Found Monument As Noted
- ▨ Right Of Way Grant Area

Accepted By

Date:

FOREST ENGINEER

March 8, 1991

SHEET 1 OF 4

"EXHIBIT A"

24-Jan-1991

ZFHL370,101CRATER90.F2A

VIZO-PI

24-Jan-1991

ZF11370,101CRATER80.F2A

SEE DRG. NO. 9B-36-11

10+000 PNT
N. 45° 00' 00" E.
10+000 PNTN. 45° 00' 00" E.
10+000 PNTBEGINNING OF PROJECT RS-103(2)
STA. 10+00NATIONAL FOREST SYSTEM LAND
UNSURVEYED
N.W. 1/4 S.E. 1/4 SEC. 25
T. 32 S., R. 6 E., W.M.
(PER DEFINITION)NATIONAL
FOREST
SYSTEM
LANDNATIONAL FOREST SYSTEM LAND
UNSURVEYED
N.W. 1/4 S.E. 1/4 SEC. 25
T. 32 S., R. 6 E., W.M.
(PER DEFINITION)NATIONAL
FOREST
SYSTEM
LANDNATIONAL
FOREST
SYSTEM
LAND

CRATER LAKE BOUNDARY - FT. KLAMATH SEC.

CRATER LAKE HIGHWAY

KLAMATH COUNTY, OREGON

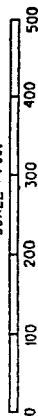
WINEMA NATIONAL FOREST
RIGHT OF WAY PLAT
Description of Land:UNSURVEYED
NW/SE 1/4 SEC. 25, T. 32S., R. 6E., W.M.
PER DEFINITION
2.28 AC.

RIGHT OF WAY GRANT

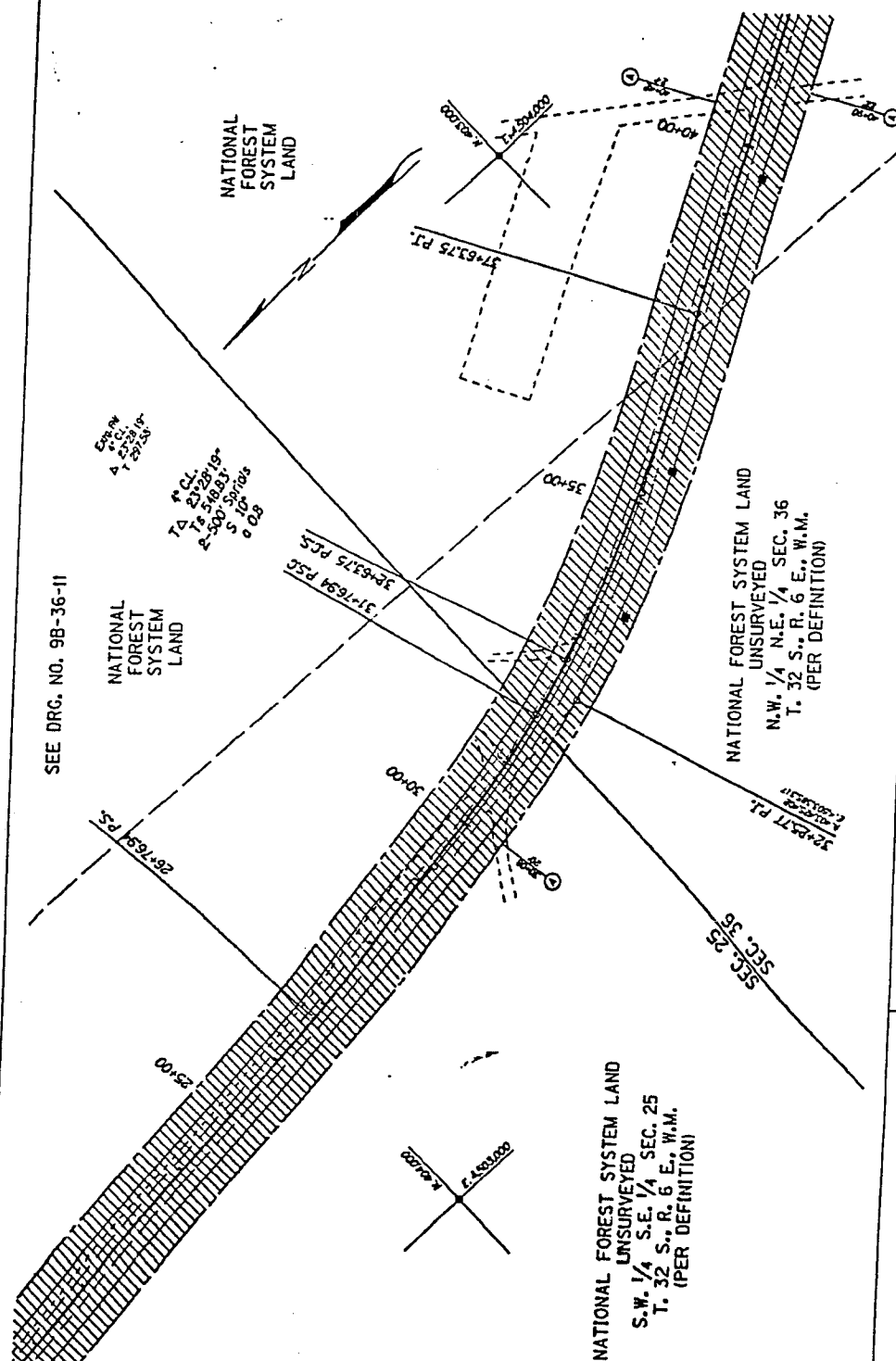
TOTAL RIGHT OF WAY: 10.18 AC.

EXHIBIT A
SHEET 2 OF 4

SCALE - Feet



24-Jan-1991



RIGHT OF WAY GRANT

TOTAL RIGHT OF WAY: 10.18 AC.S

EXHIBIT A
SHEET 3 OF 4

WINEMA NATIONAL FOREST
RIGHT OF WAY PLAT
Description of Land:

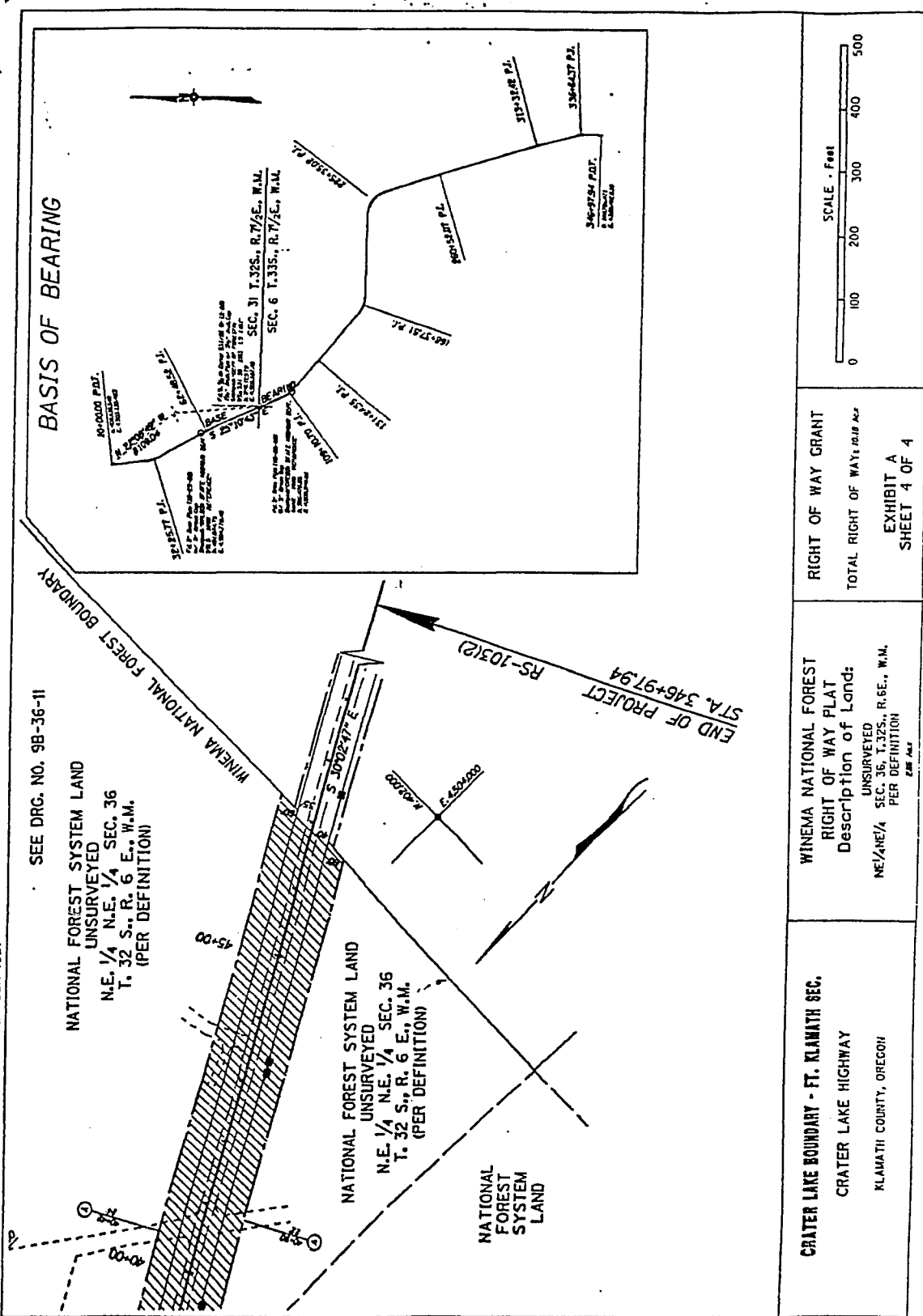
SW 1/4 SE 1/4
NW 1/4 NE 1/4

CRATER LAKE BOUNDARY - FT. KLANATH SEC.

CRATER LAKE HIGHWAY

KLAMATH COUNTY, OREGON

ZF1: I370, I013 CRATER90.F2A



STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Oregon Hwy Div. the 20th day
of Aug. A.D., 19 91 at 9:47 o'clock A M., and duly recorded in Vol. M91
of Deeds on Page 16524

FEE \$45.00

Return: Oregon Dept. of Transportation
Hwy Div.-Transportation Bldg., Salem, Or. 97310

Evelyn Biehn ~County Clerk

By Pauline M. Mendenhall