

47933

Vol. m92 Page 16321EASEMENT EXCHANGE

THIS AGREEMENT, made and entered into this 16th day of July, 1992, by and between WEYERHAEUSER COMPANY, a Washington corporation, herein called "WEYERHAEUSER," and DANIEL T. MCAULIFFE, herein called "MCAULIFFE," WITNESSETH:

I.

A. MCAULIFFE, for and in consideration of the grant hereinbelow made by WEYERHAEUSER, hereby grants and conveys to WEYERHAEUSER a perpetual nonexclusive easement upon, over and along rights of way thirty-four (34) feet in width over and across the following described lands in Klamath County, Oregon:

DescriptionSec-Twp-Rge, W.M..NW $\frac{1}{4}$ NE $\frac{1}{4}$; S $\frac{1}{2}$ NE $\frac{1}{4}$

14 40S 7E

being seventeen (17) feet on each side of the center line of the road located approximately as shown on the attached "Exhibit A."

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

B. WEYERHAEUSER, for and in consideration of the grant hereinabove made by MCAULIFFE, hereby grants and conveys to MCAULIFFE a perpetual nonexclusive easement upon, over and along rights of way thirty-four (34) feet in width over and across the following described lands in Klamath County, Oregon:

DescriptionSec-Twp-Rge, W.M.Govt. Lot 1; SE $\frac{1}{4}$ NE $\frac{1}{4}$

10 40S 7E

being seventeen (17) feet in width on each side of the center line of the road located approximately as shown on the attached "Exhibit A."

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

Return: Daniel McAuliffe
5140 Lombardy Ln.
Klamath Falls, Or. 97603

192-555

16322

11.

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, or roads, herein referred to as "road," whether singular or plural, for the purpose of providing ingress to and egress from lands and timber 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 rights of way on lands owned by it and to use the road on said rights of way in a manner that will not unreasonably interfere with the rights granted to the other party hereunder.

3. Each party may grant to third parties, upon such terms as it chooses, any or all of the rights 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 the other party hereunder.

4. Each party hereto may permit its respective employees, contractors, 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 the maintenance and resurfacing occasioned by such use as hereinafter provided. During periods when the road, or any portion thereof, is being used solely by one party, such party shall maintain such portion of said road used to the standards existing at the time use commenced. During periods when more than one party is using 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.

16323

For the purpose of the Agreement, maintenance is defined as the work normally necessary to preserve and keep the roadways, road structures and road facilities 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 share 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 its road, 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.

16324

10. This Agreement shall be binding upon and inure to the benefit of the respective heirs, devisees, 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.

WEYERHAEUSER COMPANY

By: D. W. Wilbur
Title: Forest Land Use Manager

Attest: Vicki A. Merrick
Title: Assistant Secretary

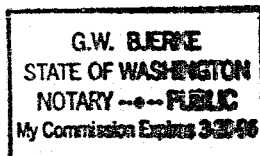
Daniel T. McAuliffe
DANIEL T. MCAULIFFE

STATE OF WASHINGTON)
COUNTY OF KING) ss.

This instrument was acknowledged before me on
July 16th, 1992 by D. W. Wilbur and
Vicki A. Merrick as Forest Land Use Manager and
Assistant Secretary of WEYERHAEUSER COMPANY.

G.W. Bjerpe
Notary Public

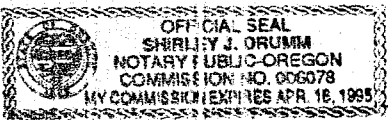
My commission expires: March 20, 1996



16325

STATE OF OREGON)
COUNTY OF Klamath) ss.

This instrument was acknowledged before me on
July 23, 1992, 1990 by DANIEL T. MCAULIFFE.



Shirley J. Drumm
Notary Public

My commission expires: April 16, 1995

SECTIONS 10 AND 14 T40S R7E W.M.

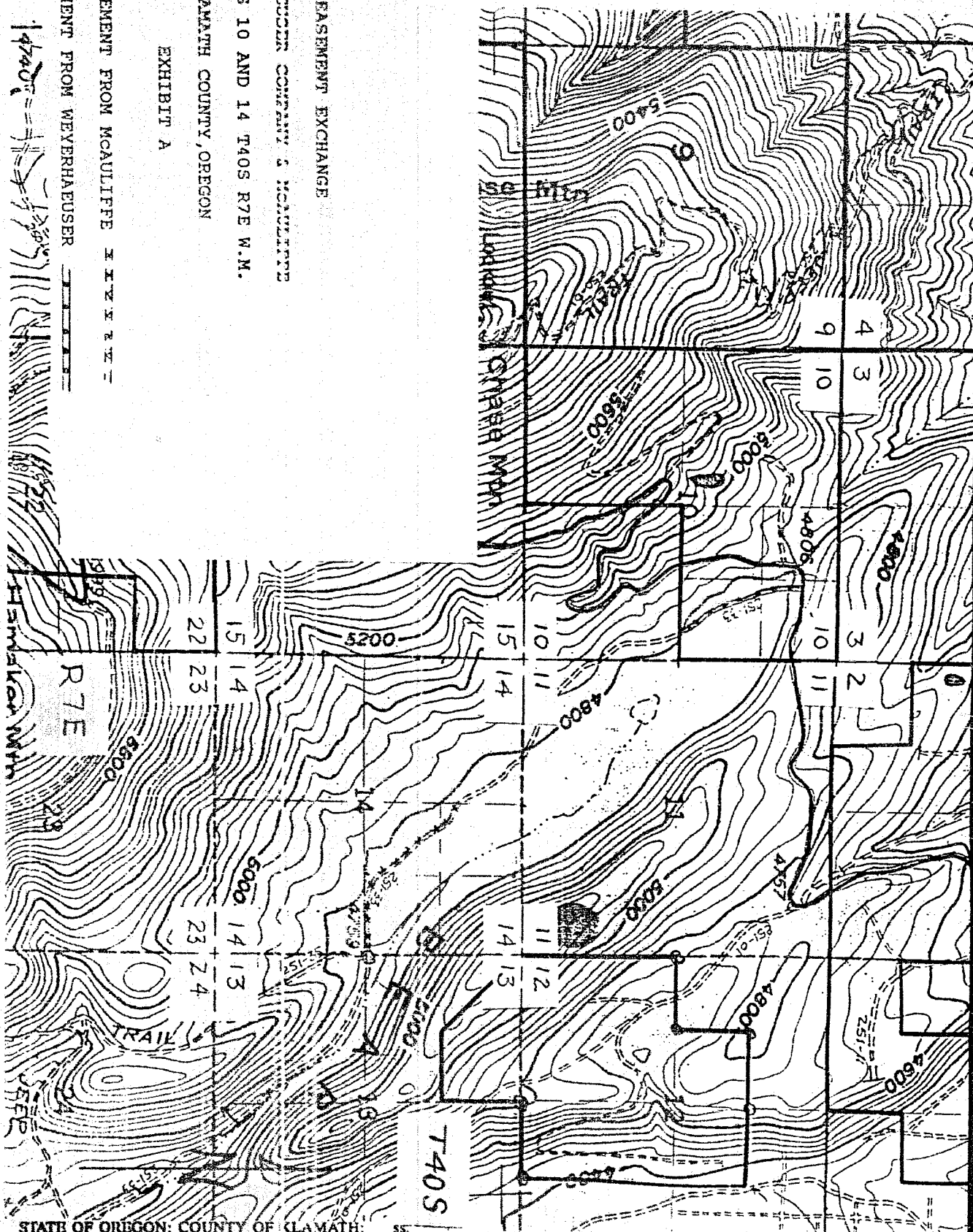
CLATSOP COUNTY, OREGON

EXHIBIT A

EASEMENT FROM MCAULIFFE 112327-

EASEMENT FROM WEYERHAEUSER

1740



STATE OF OREGON: COUNTY OF CLAMATH:

Filed for record at request of Daniel T. McAuliffe the 23rd day
of July A.D., 19 92 at 2:54 o'clock P M., and duly recorded in Vol. M92,
of Deeds on Page 16321.

Evelyn Blehn, County Clerk

By Caroline Mullins

FEE \$55.00