

72660

12-10-93P02:27 RCVD

Vol 93 Page 32978

HIGHWAY EASEMENT DEED

THIS DEED, made this 10th day of Sept, 1993, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the county of KLAMATH of the state of OREGON, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 107(d) and 317), for the right-of-way of a highway over certain Federal land under the jurisdiction of the United States Department of Agriculture in the state of OREGON, which land has been appropriated by the Department; and

WHEREAS, the Federal Highway Division Administrator, pursuant to delegation of authority from the Secretary of Transportation, the Federal Highway Administrator, and the Regional Federal Highway Administrator, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for the operation and maintenance of Klamath County Road 676; and

WHEREAS, the United States Department of Agriculture, through the Forest Service, in its consent to the appropriation of the Federal land, 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 and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation (49 CFR 21.1-21.13) pertaining to and effectuating the provisions of Title VI of the civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee an easement for a right-of-way for the operation and maintenance of a highway and use of the space above and below the established grade line of the highway for highway purposes on, over, across, in, and upon the following described Federal land within the Premont National Forest, county of KLAMATH, state of OREGON.

DESCRIPTION

The area applied for is in the following location:

T.28 S., R.11 E., W.M.

Sec. 25, NE1/4 SE1/4, S1/2 SE1/4, SE1/4 SW1/4, and NE1/4 SW1/4;

Sec. 26, SW1/4 SE1/4;

Sec. 34, NE1/4 NW1/4 and SW1/4 NW1/4;

as shown on the attached Exhibit "A".

SUBJECT, however, to the following terms, conditions, and covenants:

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.

2. The Grantee and the Forest Supervisor shall make determination as to the necessity for archaeological 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 the Grantee in compliance with the acts 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-470ll), 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 operation, and maintenance of a highway 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, an 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 signs on the portions of the right-of-way outside of construction clearing limits.
 4. The design and construction of highway project(s) situated on this right-of-way will be in accord 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 Supervisor will be provided an opportunity to review plans relative to effects, if any, that the project works as planned will have upon adequate protection 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 Supervisor and the Grantee by conference or other communication during the preparation of the plans and specification for each construction project, and the plans shall be revised, modified, or supplemented to meet the approval of the Forest Supervisor, or when deemed appropriate, supplemented by written stipulation between the Forest Supervisor and the Grantee prior to start of construction.
- The final design and the construction specifications for any highway construction project on the right-of-way will be presented to the Forest Supervisor 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 stipulation be amended or supplemented, any amendment or supplement shall be approved by the Forest Supervisor 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 aesthetic 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 Forest Supervisor and the Grantee prior to completion of the highway and the Grantee shall maintain all terracing, water bars, leadoff 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 quarries; permanent storage areas; or sites for highway operation and maintenance facilities, camps, supply depots, or disposal areas within the right-of-way unless shown on approved construction plans without first obtaining approval of the Forest Supervisor.
7. 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.
8. The Grantee, in consideration of the grant of this easement, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that:
 - a. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed,
 - b. That the Grantee shall use said easement and right-of-way so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, effectuation of Title VI of the Civil Rights Act of 1964, and said regulations as may be amended.
9. When need for the easement herein granted no longer exists, the Grantee shall give notice of that fact to the Secretary of Transportation and the rights herein granted shall terminate and the land shall revert immediately to the full control of the Department of Agriculture.

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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, 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
Regional Counsel

Witness:

STATE OF Oregon
COUNTY OF Multnomah

I, Donna Z. Juhnke, a Notary Public in and for the State of Oregon, do hereby certify that on this the 16th day of September, 1993, before me personally appeared Robert B. Rutledge, Regional Counsel, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of Sept. 10, 1993, 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 16th day of September, 1993.

(SEAL)

My commission expires: October 14, 1994



In compliance with the conditions set forth in the foregoing deed, the county of Klamath, state of Oregon, 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.

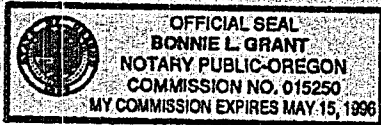
BY: Edwin KentnerTITLE: Chairman, Klamath County Board of Commissioners

STATE OF OREGON
COUNTY OF KLAMATH

I, BONNIE L. GRANT, a Notary Public in and for said County and State, hereby certify that Ed KENTNER, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on, this day that, being informed of the contents of the conveyance, He, in his capacity as such, Chairman executed the same voluntarily on this day.

Klamath County Board of Commissioners
Given under my hand and seal of office this 24th day of November, 1993

Bonnie L. Grant
Notary Public



(SEAL)

My commission expires May 15, 1996

After recording, please
return to Klamath
County Commissioners.

Approved: Reginald Davis

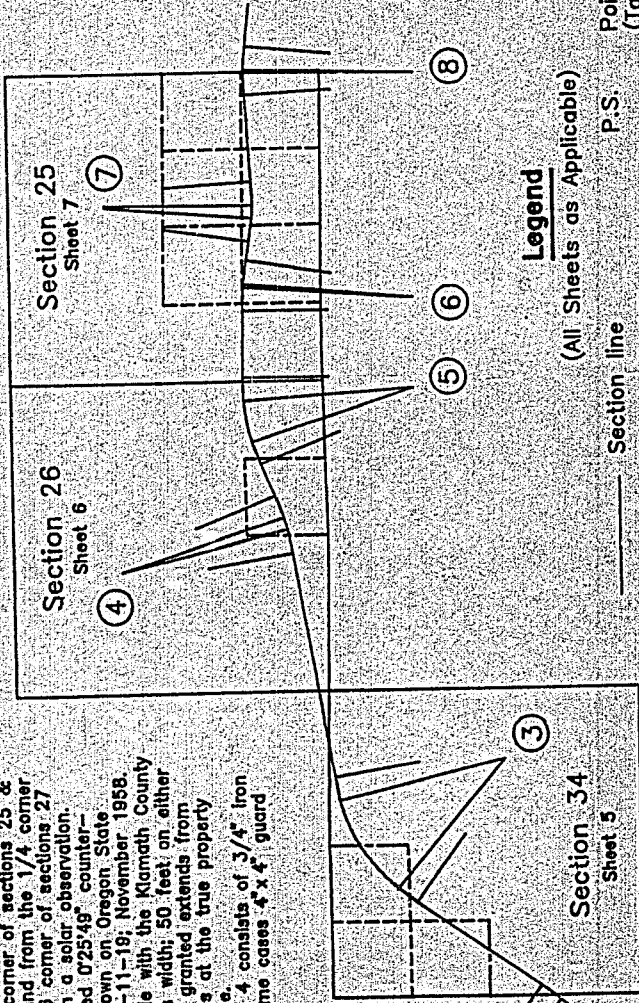
Reginald Davis
County Counsel

NOTES

The route being granted follows the centerline of the existing road. All corner lies were by survey in September 1992. Bearings are based on record bearings shown on Record of Survey No. 1316 from the W 1/16 corner of sections 25 & 36 to the W 1/16 of section 25 and from the 1/4 corner of sections 27 & 34 to the W 1/16 corner of sections 27 & 34. These bearings are based on a solar observation. Bearings on this plat must be related 0°25'49" counter-clockwise to correspond to those shown on Oregon State Highway Department drawing No. 88-11-19; November 1958. Record of Survey No. 1316 is on file with the Klamath County Surveyor. The R.O.W. is 100 feet in width; 50 feet on either side of centerline. The route being granted extends from the true property line and terminates at the true property line or the Klamath-Lake County line. The monumentation shown on sheet 4 consists of 3/4" iron rods unless otherwise noted. In some cases 4" x 4" guard posts are located nearby.

T. 28 S.

Klamath County
Road Number 676



Legend

(All Sheets as Applicable)

- Section line
- 1/4 Section line
- 1/16 Section line
- Curve number
- Corner & Accessories Found as Recorded
- P.S. Point of Spiral (Tangent to Spiral)
- P.S.C. Point of Spiral to Curve
- P.C.S. Point of Curve to Spiral
- P.T. Point of Tangent (Spiral to Tangent)

Scale in feet



EXHIBIT A

Sheet 1 of 7
Index

PROJECT: County Road No. 676
SECS. 25, 26, & 34, T.28S., R.11E., W.M.
Method of Survey: Electronic Total Station
DATE OF PLAT: 12/07/92

2730 RIGHT-OF-WAY GRANT
USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

Surveyed by: James H. Richter Date: 9/92
Drawn by: John H. Thompson Date: 12/92
Reviewed by: John H. Thompson Date: 12/1/92
Approved by: Ronald H. Thompson Date: 12/7/92
FORST LAND SURVEYOR

GRANTEE: KLAMATH COUNTY

EXHIBIT A

322983

NOTES

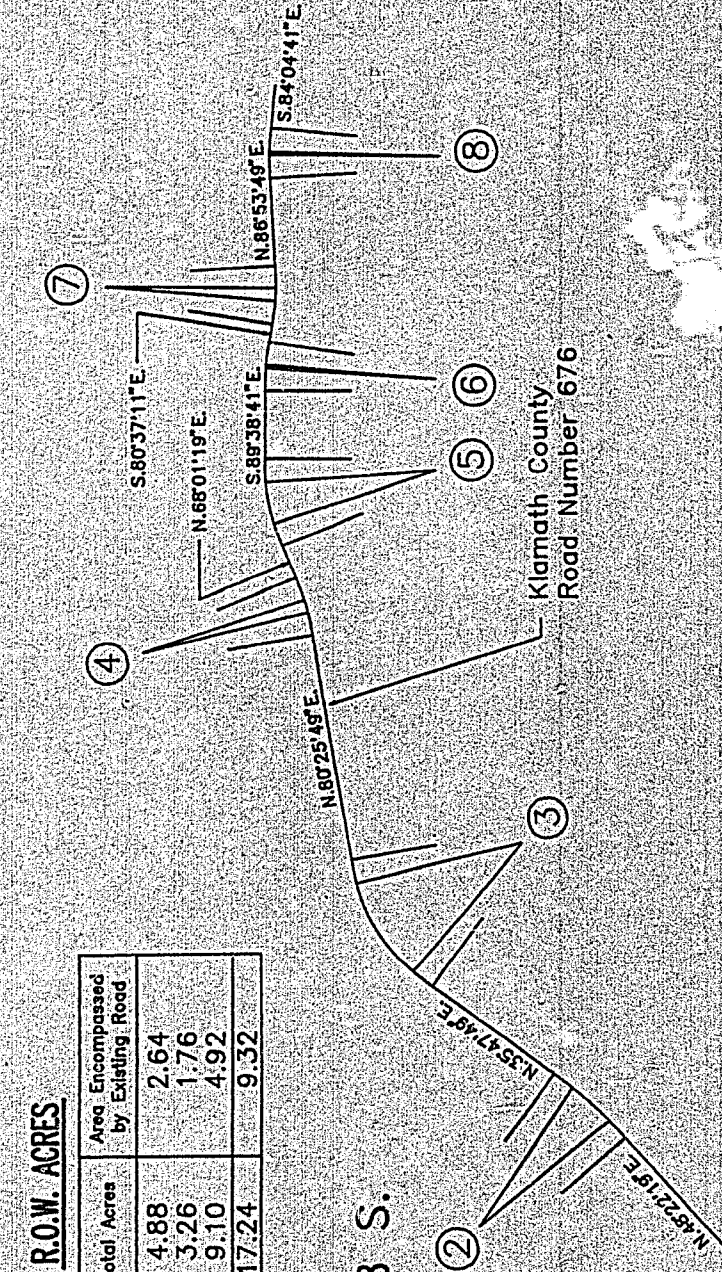
See sheet 3 for curve data.

R.O.W. ACRES

Section	Total Acres	Area Encompassed by Existing Road
34	4.88	2.64
26	3.26	1.76
25	9.10	4.92
Total	17.24	9.32

T. 28 S.

R. 11 E.



Scale in feet



PROJECT: County Road No. 676
SECS 25, 26, & 34, T.28S., R.11E., W.M.
DATE OF PLAT: 12/07/92

USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

2730 RIGHT-OF-WAY GRANT

GRANTEE: KLAMATH COUNTY

Curve Data

EXHIBIT A
Sheet 3 of 7

(2) Circular Curve
1' C.L.
T_A = 1234.30'
T_S = 831.40' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 200'
a = 0.25

(3) Circular Curve
2' C.R.
T_A = 4438.00'
T_S = 1376.84' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 400'
a = 0.5

(4) Circular Curve
2' C.L.
T_A = 1224.30'
T_S = 511.65' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 400'
a = 0.5

(5) Circular Curve
2' C.R.
T_A = 2220.00'
T_S = 765.94' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 400'
a = 0.5

(6) Circular Curve
2' C.R.
T_A = 901.30'
T_S = 426.25' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 400'
a = 0.5

(7) Circular Curve
2' C.L.
T_A = 1229.00'
T_S = 513.55' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 400'
a = 0.5

(8) Circular Curve
2' C.R.
T_A = 901.30'
T_S = 426.25' Feet

Entrance and Exit Spiral Curves
400' Sp.
S = 400'
a = 0.5

Legend (This Sheet)

C.L.; C.R. Curve Left; Curve Right
T_A Total Curve Deflection
T_S Total Tangent Length
Sp. Length of Spiral
S Spiral Angle
a Rate of Change per Station

PROJECT: County Road No. 676
SECS. 25, 26, & 34, T.28S., R.11E., W.M.
DATE OF PLAT: 12/07/92

USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

2730 RIGHT-OF-WAY GRANT

GRANTEE: KLAMATH COUNTY

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Found R.O.W. Monuments

EXHIBIT A

Sheet 4 of 7

Station	Monument Position	
	Left	Right
1709+22.75 P.T.	49.64	49.86
1709+22.75 P.T.		29.96 (1/2" Rebar)
1734+63.00 P.S.	49.62	50.49
1738+63.00 P.S.C.	50.12 (Bent)	50.14
1756+94.67 P.C.S.	Not Found	Not Found
1760+94.67 P.T.	48.96	Not Found
1799+56.07 P.S.	49.78	49.94
1803+56.07 P.S.C.	50.09	49.72
1805+76.49 P.C.S.	50.16	49.44
1809+76.49 P.T.	50.24	49.58
1815+75.71 P.S.	50.47	49.59
1819+75.71 P.S.C.	50.33	49.37
1826+92.38 P.C.S.	Not Needed	Not Needed
1830+92.38 P.T.	Not Needed	Not Needed
1842+35.45 P.S.	50.14	49.64
1846+35.45 P.S.C.	50.19	49.52
1846+86.70 P.C.S.	50.46	49.37
1850+86.70 P.T.	50.42	49.53
1854+03.48 P.S.	50.32	49.45
1858+03.48 P.S.C.	50.14	49.73
1860+27.65 P.C.S.	50.14	49.61
1864+27.65 P.T.	50.09	49.74
1879+09.91 P.S.	49.91	50.05
1883+09.91 P.S.C.	Not Found	50.04
1883+61.16 P.C.S.	50.14	50.14

PROJECT: County Road No. 676
SECS. 25, 28, & 34, T.28S., R.11E., W.M.
DATE OF PLAT: 12/07/92

USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

2730 RIGHT-OF-WAY GRANT

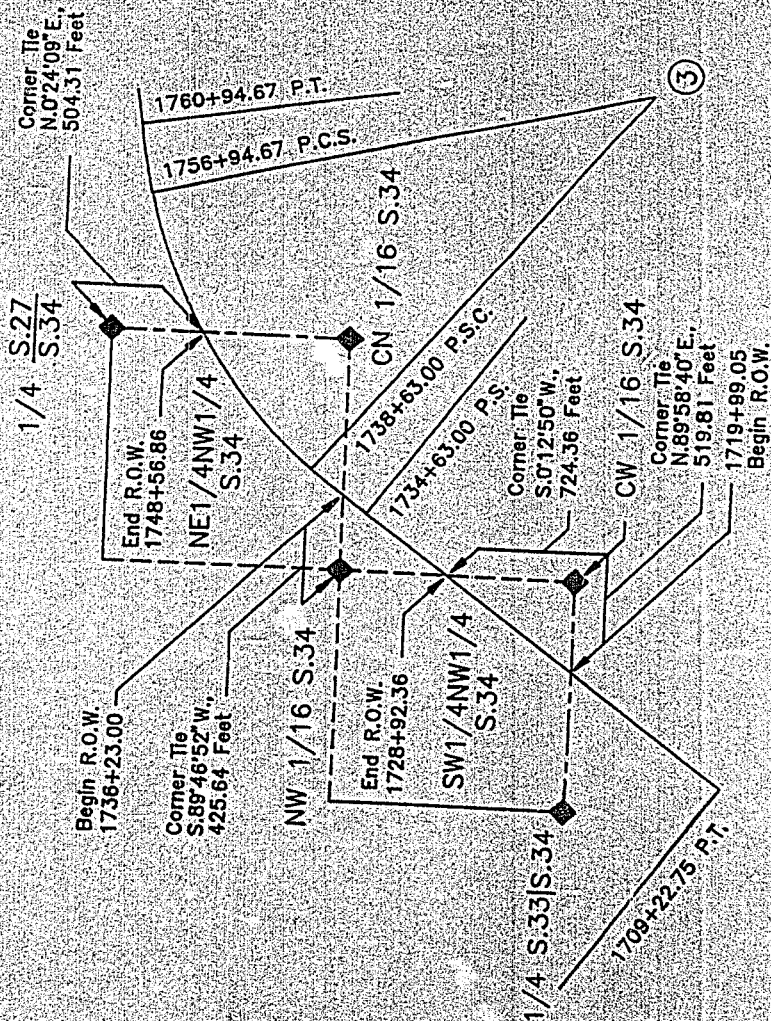
GRANTEE: KLAMATH COUNTY

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EXHIBIT A

Sheet 5 of 7

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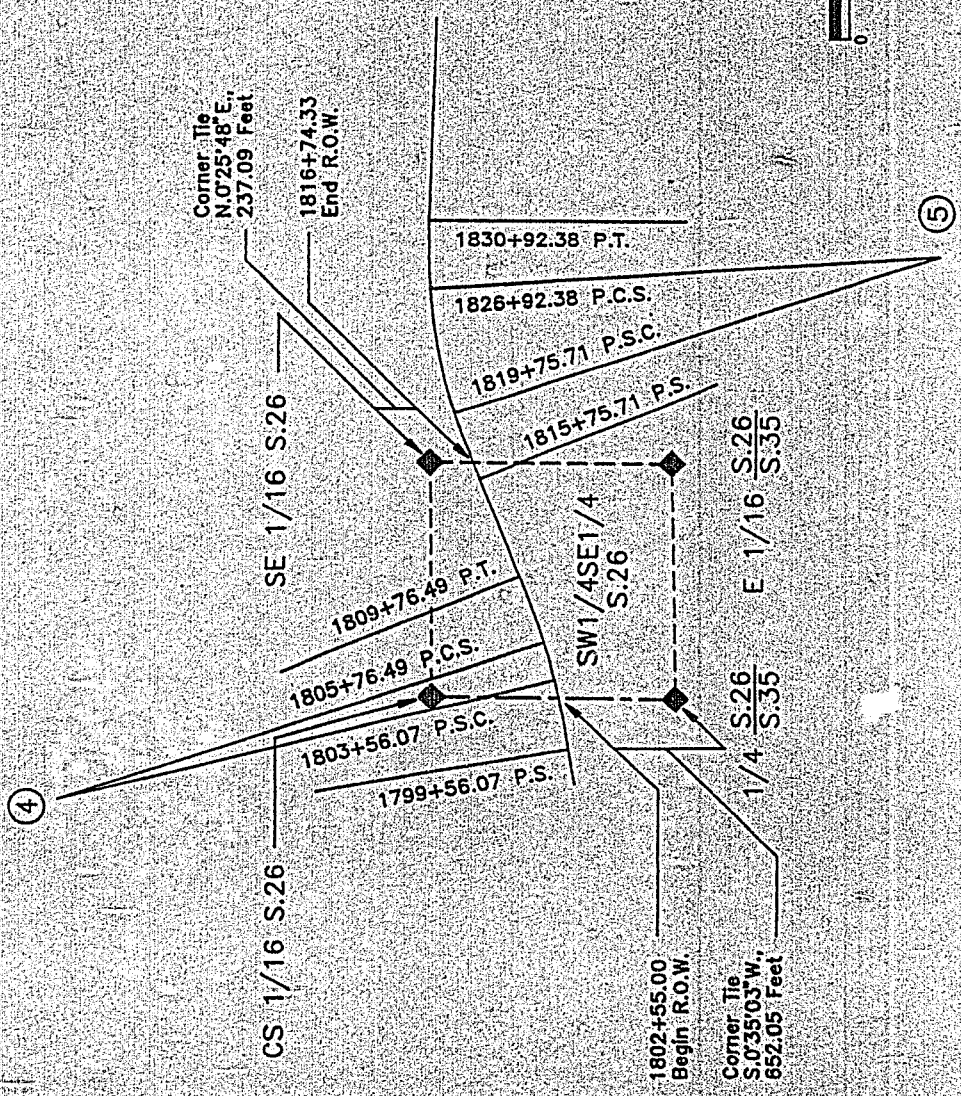
PROJECT: County Road No. 676
SECTION 34, T.28S., R.11E., W.M.
DATE OF PLAT: 12/07/92

USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

2730 RIGHT-OF-WAY GRANT

GRANTEE: KLAMATH COUNTY

EXHIBIT A
Sheet 6 of 7



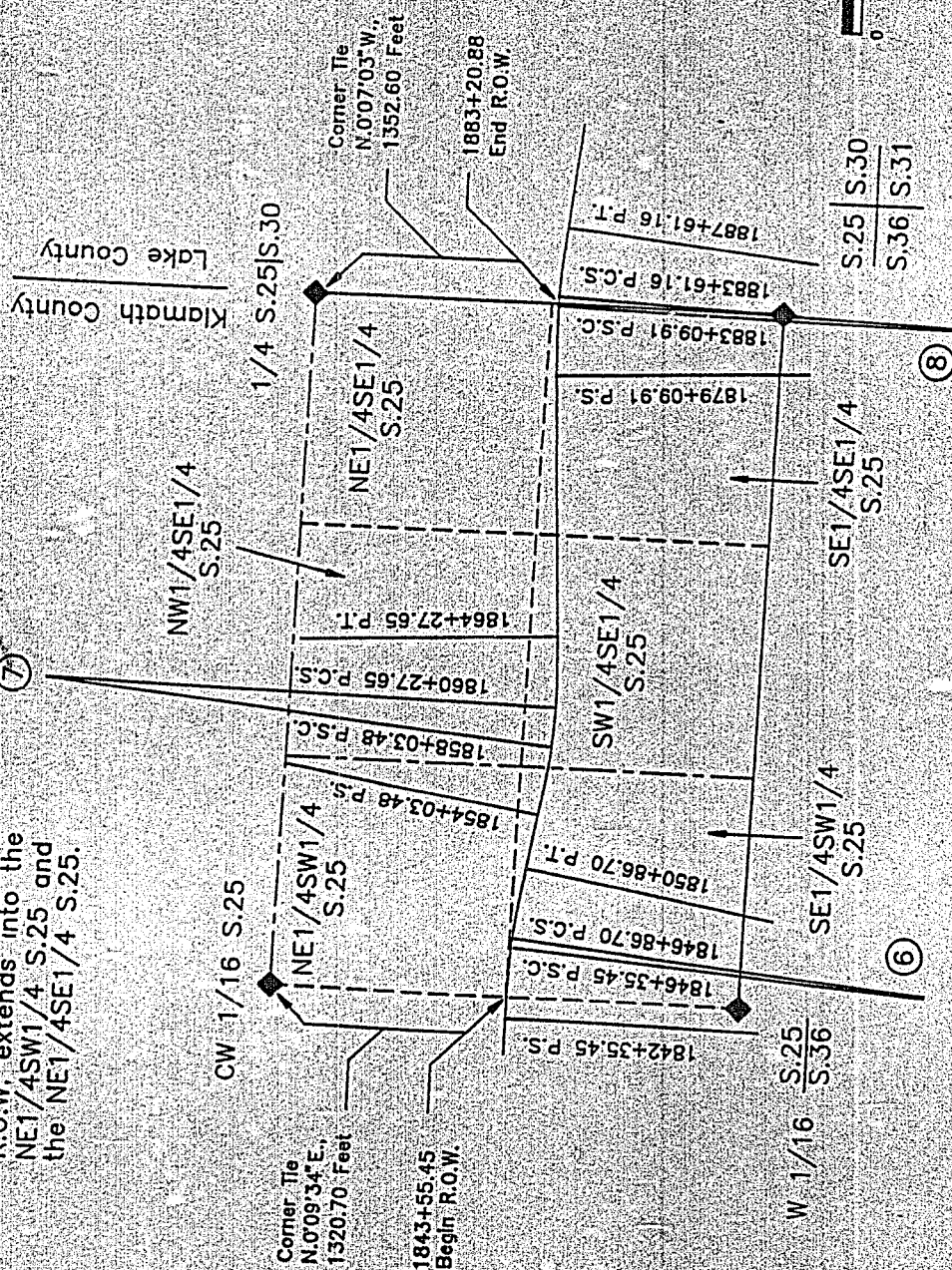
PROJECT: County Road No. 676
SECTION 26, T.28S., R.11E., W.M.
DATE OF PLAT: 12/07/92

USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

2730 RIGHT-OF-WAY GRANT

GRANTEE: KLAMATH COUNTY

Note: R.O.W. extends into the NE1/4SW1/4 S.25 and the NE1/4SE1/4 S.25.



PROJECT: County Road No. 676
SECTION 25, T.28S., R.11E., W.M.
DATE OF PLAT: 12/07/92

USDA FOREST SERVICE
PACIFIC NORTHWEST REGION
FREMONT NATIONAL FOREST
Klamath County, Oregon

2730 RIGHT-OF-WAY GRANT

GRANTEE: KLAMATH COUNTY

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Dec. A.D. 19 93 at 2:27 o'clock P M., and duly recorded in Vol. M93 of Deeds on Page 32978

FEE \$65.00

Evelyn Biehn County Clerk

By Courline Nielsen