

81610

05-25-94P03:18 RCVD

HIGHWAY EASEMENT DEED

Vol. m94 Page 16608

THIS DEED, made this 17th day of April, 1994 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 KLAMATH COUNTY, 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 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)); and

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 the Cascade Lakes Highway, County road number 61, Crescent Cutoff Highway and

WHEREAS, the United States 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 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 pavement for

highway purposes on, over, across, in, and upon the following described land of the United States within the Deschutes National Forest:

T.24 S., R.7 E.

- Sec. 14, NW1/4 NE1/4, N1/2 NW1/4;
- Sec. 15, lot 3, NE1/4, SE1/4 NW1/4, NE1/4 SW1/4, NW1/4SE1/4;
- Sec. 16, lots 9-11, SW1/4;
- Sec. 17, NE1/4 SE1/4, S1/2 SE1/4.

as shown on Exhibit A attached hereto and made a part hereof, 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 reconstruction 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 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 signs on the portions of the right-of-way outside of construction clearing limits.
4. The design and reconstruction of highway project(s) 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 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, reconstruction, 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 reconstruction 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 reconstruction.

The final design and the construction specifications for any highway reconstruction project on the right-of-way will be presented to the Forest Supervisor for approval; reconstruction 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.

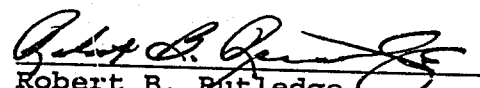
5. Consistent with highway safety standards, the Grantee shall:
 - a. Protect and preserve soil and vegetative cover and scenic and aesthetic values on the right-of-way outside of construction limits.
 - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the reconstruction, 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 reconstruction.
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 reconstruction 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 Forest Supervisor. 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 original, 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.

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
Regional Counsel

STATE OF OREGON)
COUNTY OF MULTNOMAH) ss:

16612

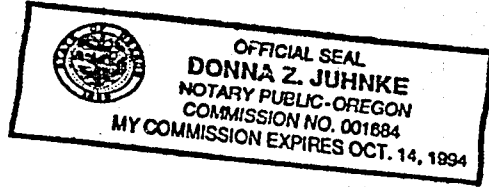
I, Donna Z. Juhnke, a Notary Public in and for the State
of Oregon, do hereby certify that on this the 18th day of
April, 1994, before me personally appeared Robert B. Rutledge
Regional Counsel, Federal Highway Administration, and
acknowledged that the foregoing instrument bearing date of April 17
1994, 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 18th day of April, 1994.

(SEAL)
Public

Donna Z. Juhnke Notary

My commission expires: October 14, 1994.



16613

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: AATITLE: Commission ChairSTATE OF OregonCOUNTY OF Klamath

I, Nancy Lee Bodkin, a Notary Public in and for said County and State, hereby certify that Wes Sine, 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, deed, in his capacity as such, Commission Chair executed the same voluntarily on this day.

Given under my hand and seal of office this 24th day of May, 1974.



Nancy Lee Bodkin
Notary Public

(SEAL)

My commission expires February 8, 1997 Notary Public

16614

EXHIBIT "A"
 RIGHT-OF-WAY GRANT TO
 KLAMATH COUNTY, OREGON
 OREGON FOREST HIGHWAY PROJECT PFH 46-1(3)
 CASCADE LAKES HIGHWAY
 CRESCENT CUTOFF ROAD NO. 61 - COUNTY ROAD NO. 1351

RIGHT-OF-WAY PLATS
 U.S.D.A.

FOREST SERVICE
 PACIFIC NORTHWEST REGION
 DESCHUTES NATIONAL FOREST

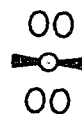
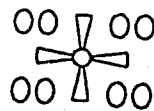
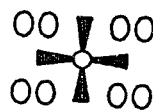
DESCRIPTION OF LANDS:

SEE SHEET 2 OF 14.

TOTAL RIGHT-OF-WAY = 48.94 ACRES

RECORDS OF SURVEY ARE LOCATED AT:
 FEDERAL HIGHWAY ADMINISTRATION
 610 EAST FIFTH STREET
 VANCOUVER, WASHINGTON 98661

LEGEND



Found section Corner

Projected Section Corner

Found Quarter Corner

Projected Quarter Corner

Township/Range Line

Section Line

1/4 Section Line

1/16 Section Line

Proposed Right-of-Way Line

Top of Cut Slope

Toe of Fill Slope

BEARINGS ARE BASED ON:

GPS STATE PLANE
 *NOTE: 2 MILLION WAS DROPPED
 FROM THE EASTING FOR COMPUTER
 AIDED DESIGN PURPOSES.

Accepted By: *William J. Martin*

Forest Engineer
 Deschutes N.F.

Date: 1/10/99

EXHIBIT "A"

16615

RIGHT-OF-WAY GRANT TO
KLAMATH COUNTY, OREGON
OREGON FOREST HIGHWAY PROJECT PFH 46-1(3)
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF ROAD NO. 61 - COUNTY ROAD NO. 1351

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

DESCRIPTION OF LANDS:

TOWNSHIP 24 SOUTH, RANGE 7 EAST, WILLAMETTE MERIDIAN

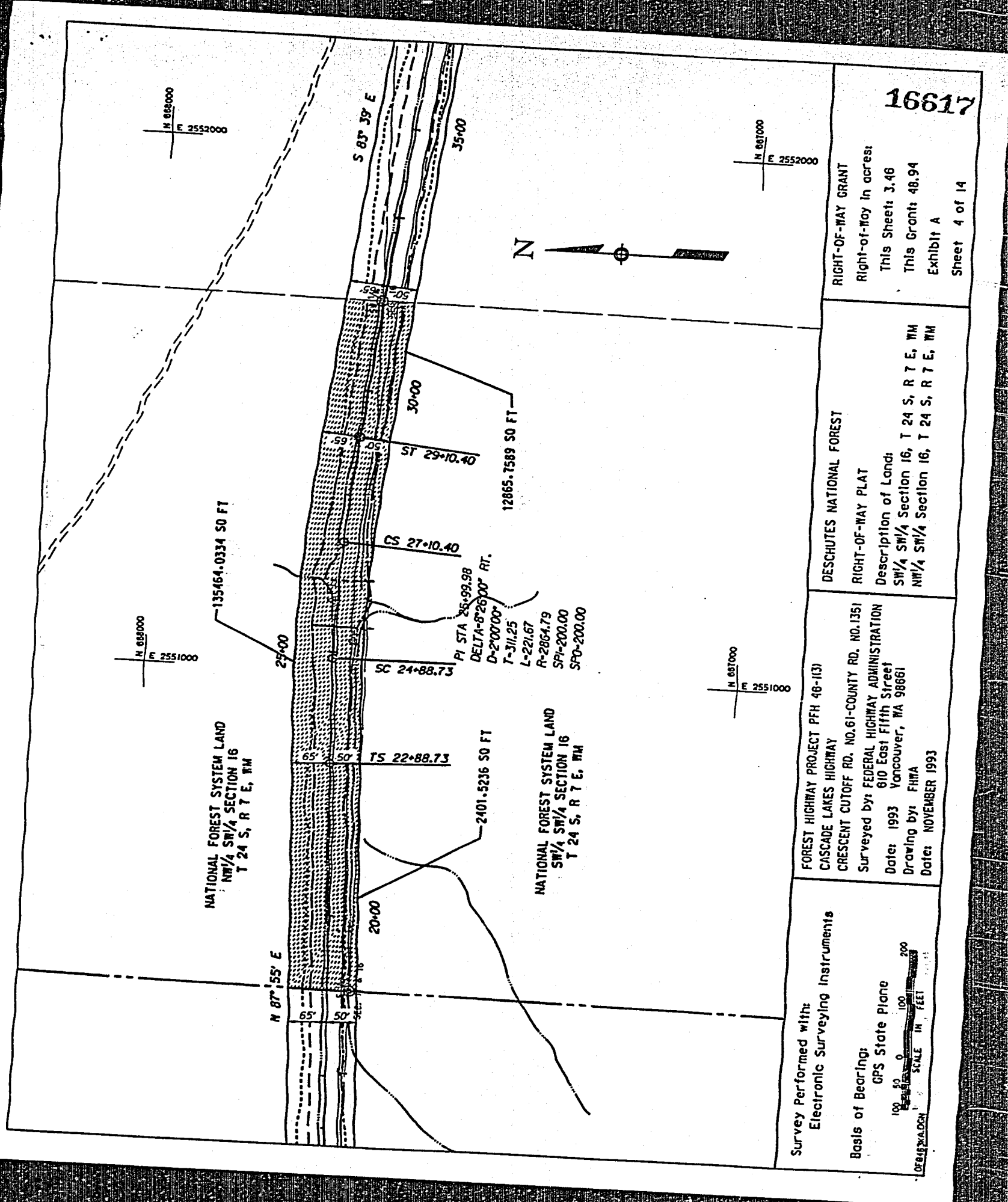
NW¹/₄ NW¹/₄, SECTION 14
NE¹/₄ NW¹/₄, SECTION 14
NW¹/₄ NE¹/₄, SECTION 14

LOT 3, SECTION 15
NE¹/₄ SW¹/₄, SECTION 15
NW¹/₄ SE¹/₄, SECTION 15
SE¹/₄ NW¹/₄, SECTION 15
SW¹/₄ NE¹/₄, SECTION 15
NW¹/₄ NE¹/₄, SECTION 15
SE¹/₄ NE¹/₄, SECTION 15
NE¹/₄ NE¹/₄, SECTION 15

NW¹/₄ SW¹/₄, SECTION 16
SW¹/₄ SW¹/₄, SECTION 16
NE¹/₄ SW¹/₄, SECTION 16
SE¹/₄ SW¹/₄, SECTION 16
LOT 11, SECTION 16
LOT 10, SECTION 16
LOT 9, SECTION 16

SW¹/₄ SE¹/₄, SECTION 17
SE¹/₄ SE¹/₄, SECTION 17
NE¹/₄ SE¹/₄, SECTION 17

TOTAL RIGHT-OF-WAY = 48.94 ACRES



Survey Performed with:
Electronic Surveying Instruments

Basis of Bearing:
GPS State Plane

SCALE IN FEET
0 50 100 200

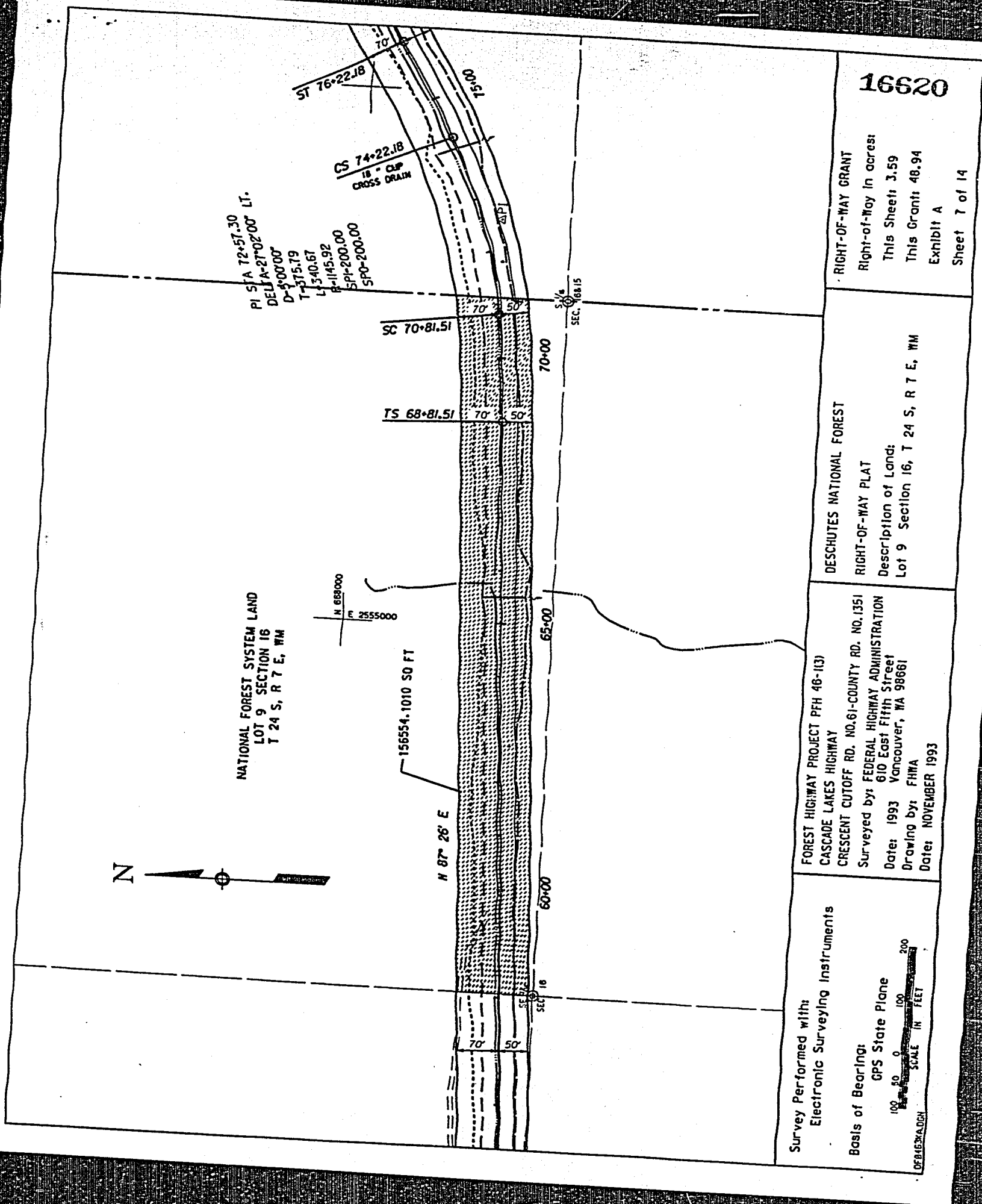
FOREST HIGHWAY PROJECT PFH 46-133
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO. 61-COUNTY RD. NO. 1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
Date: 1993 810 East Fifth Street
Drawing by: FHWA Vancouver, WA 98661
Date: NOVEMBER 1993

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
SW 1/4 Section 16, T 24 S, R 7 E, WM
NW 1/4 Section 16, T 24 S, R 7 E, WM

RIGHT-OF-WAY GRANT
Right-of-Way in acres:
This Sheet: 3.46
This Grant: 48.94
Exhibit A

Sheet 4 of 14

16617





PI STA 72+57.30
DELTA-27°02'00" LT.
D=5°00'00"
T=375.79
L=340.67
R=1145.92
SPI=200.00
SPO=200.00

TS 68+81.51

SC 70+81.51

CS 74+22.18

ST 76+22.18

NATIONAL FOREST SYSTEM LAND
LOT 3 SECTION 15
T 24 S, R 7 E, WM

188424.6589 SO FT

N 60°24'E

00+58

TS 85+97.52

SC 87+97.52

16621

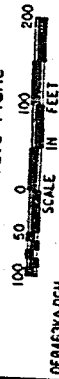
RIGHT-OF-WAY GRANT
Right-of-Way in acres:
This Sheet: 4.33
This Grant: 48.94
Exhibit A
Sheet 8 of 14

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
Lot 3 Section 15, T 24 S, R 7 E, WM

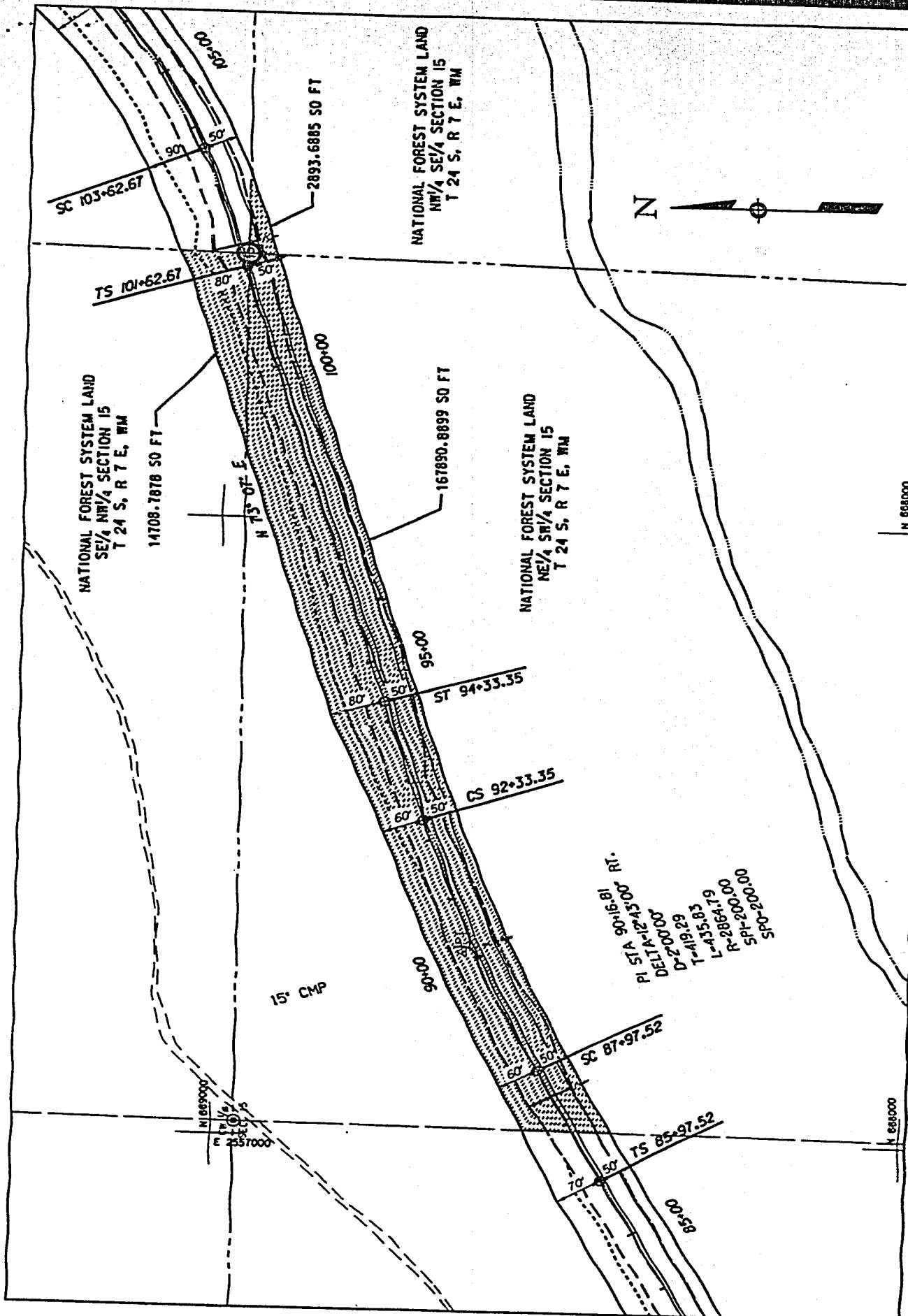
FOREST HIGHWAY PROJECT PFH 46-113)
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO.61-COUNTY RD. NO.1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
Date: 1993 Vancouver, WA 98661
Drawing by: FHWA
Date: NOVEMBER 1993

Survey Performed with:
Electronic Surveying Instruments

Basis of Bearing:
GPS State Plane



GRAPHIC SCALE IN FEET



16622

Survey Performed with:
Electronic Surveying Instruments

Basis of Bearing:
GPS State Plane

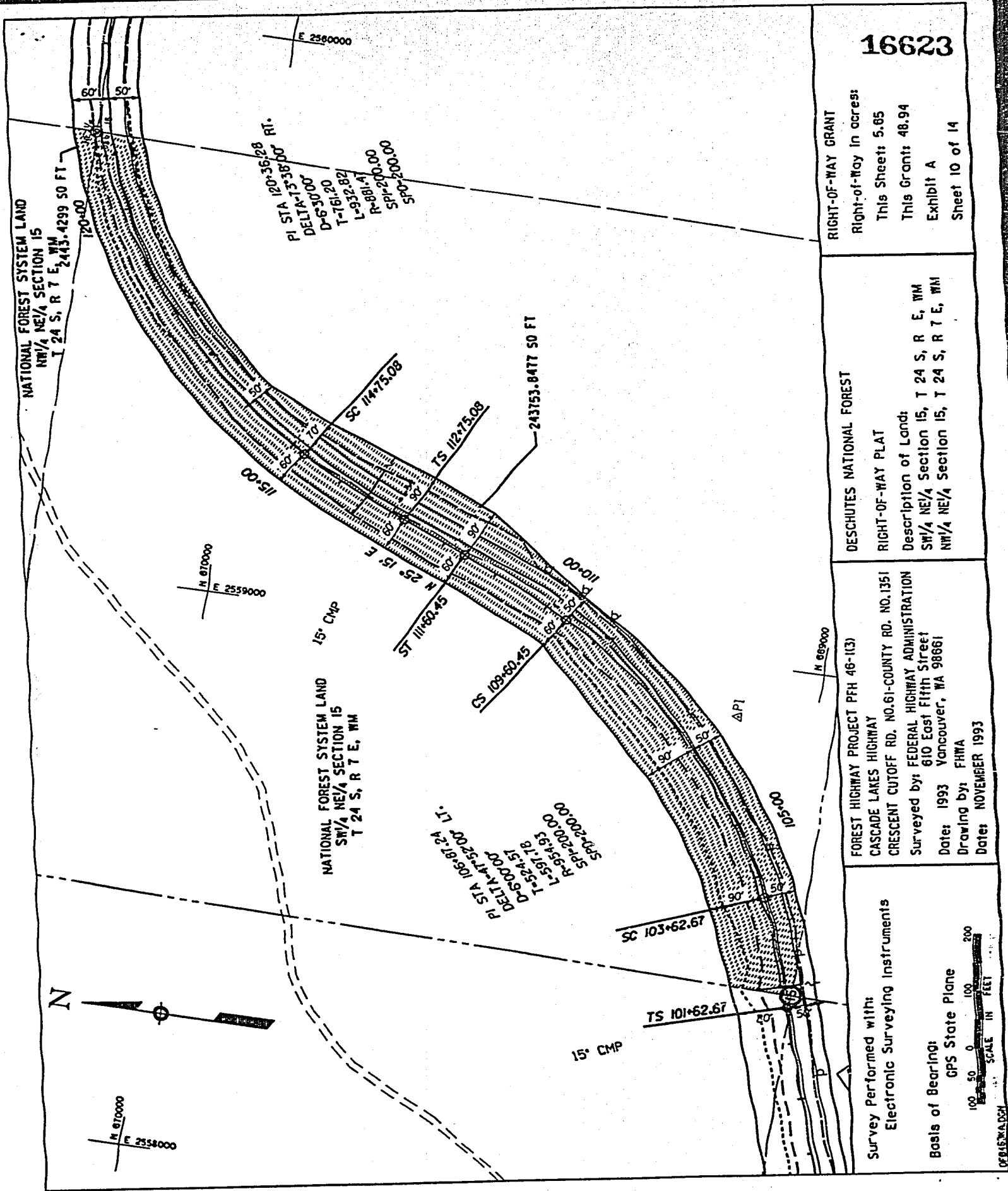
Scale: 0 100 200
FEET

DATE: NOVEMBER 1993

FOREST HIGHWAY PROJECT PFH 48-113)
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO. 61-COUNTY RD. NO. 1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
Date: 1993 Vancouver, WA 98661
Drawing by: FHWA
Date: NOVEMBER 1993

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
NE 1/4 SW 1/4 Section 15, T 24 S, R 7 E, WM
SE 1/4 NW 1/4 Section 15, T 24 S, R 7 E, WM
NW 1/4 SE 1/4 Section 15, T 24 S, R 7 E, WM

RIGHT-OF-WAY GRANT
Right-of-Way in acres:
This Sheet: 4.26
This Grant: 48.94
Exhibit A
Sheet 9 of 14



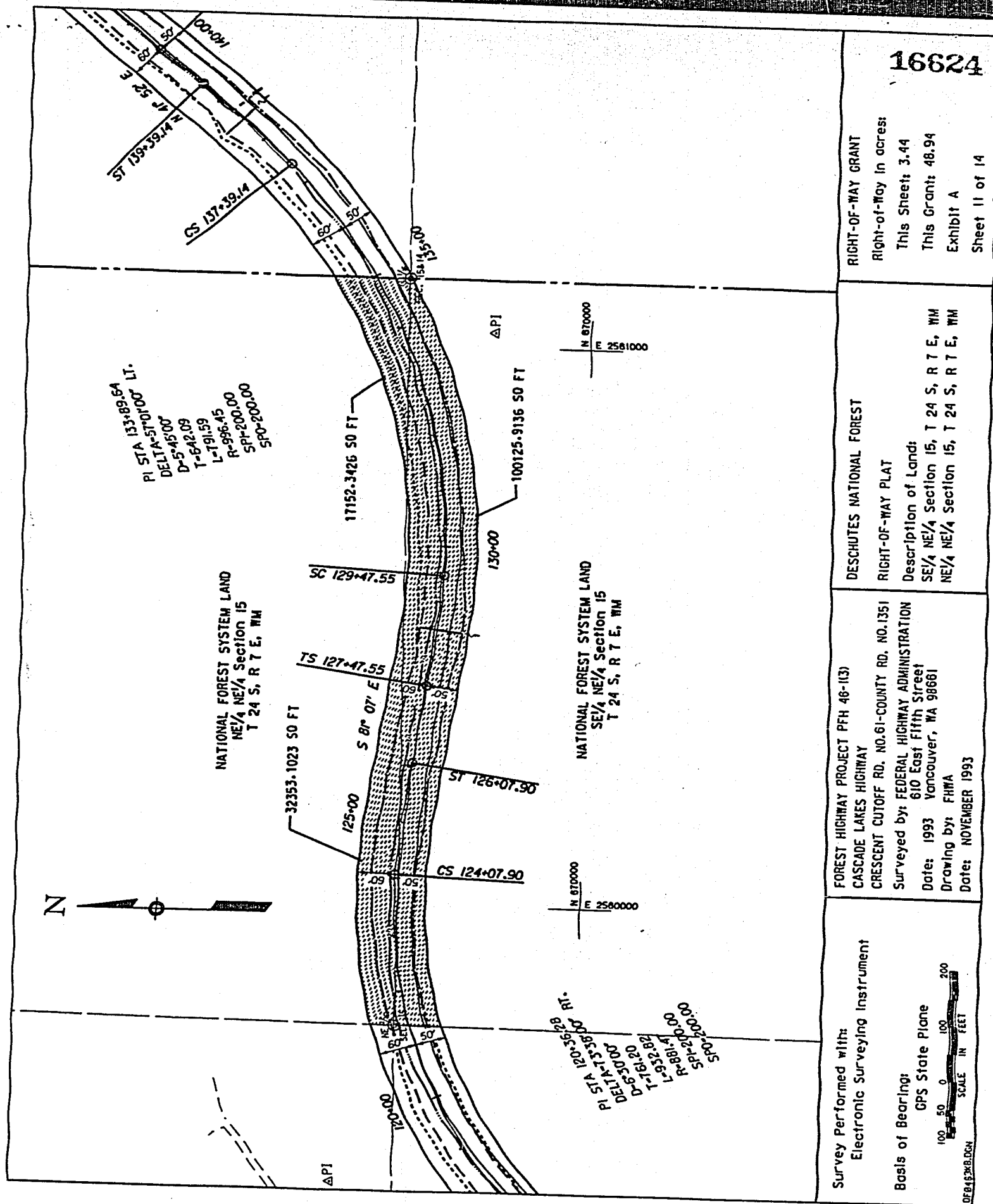
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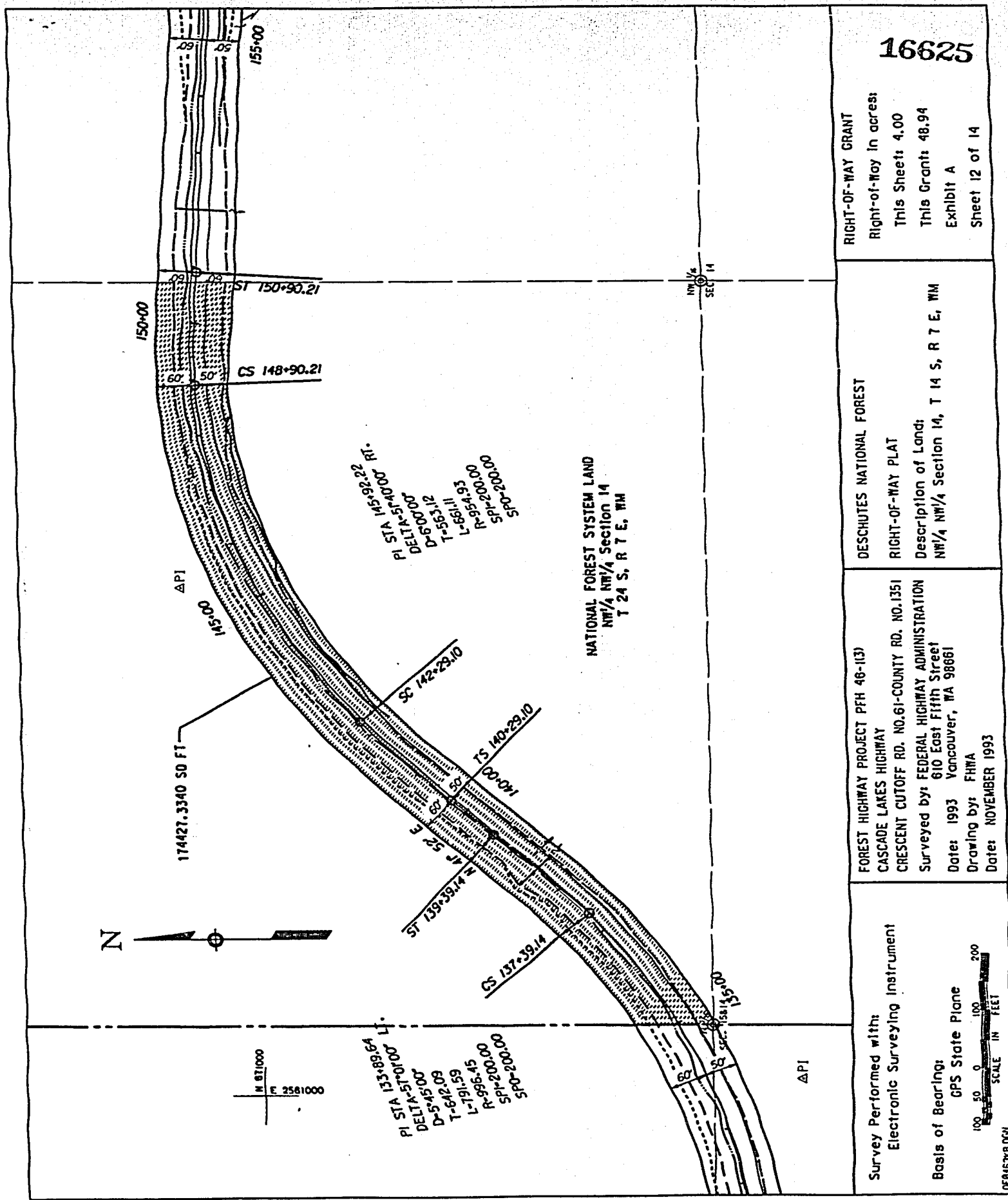
RIGHT-OF-WAY GRANT
Right-of-Way in acres:
This Sheet: 5.65
This Grant: 48.94
Exhibit A
Sheet 10 of 14

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
SW 1/4 NE 1/4 Section 15, T 24 S, R 7 E, WM
NW 1/4 NE 1/4 Section 15, T 24 S, R 7 E, WM

FOREST HIGHWAY PROJECT PFH 46-1131
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO. 61-COUNTRY RD. NO. 1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
610 East Fifth Street
Vancouver, WA 98661
Date: 1993
Drawing by: FHWA
Date: NOVEMBER 1993

Survey Performed with:
Electronic Surveying Instruments
Basis of Bearing:
GPS State Plane
SCALE IN FEET
0 100 200





Survey Performed with:
Electronic Surveying Instrument

Basis of Bearing:
GPS State Plane

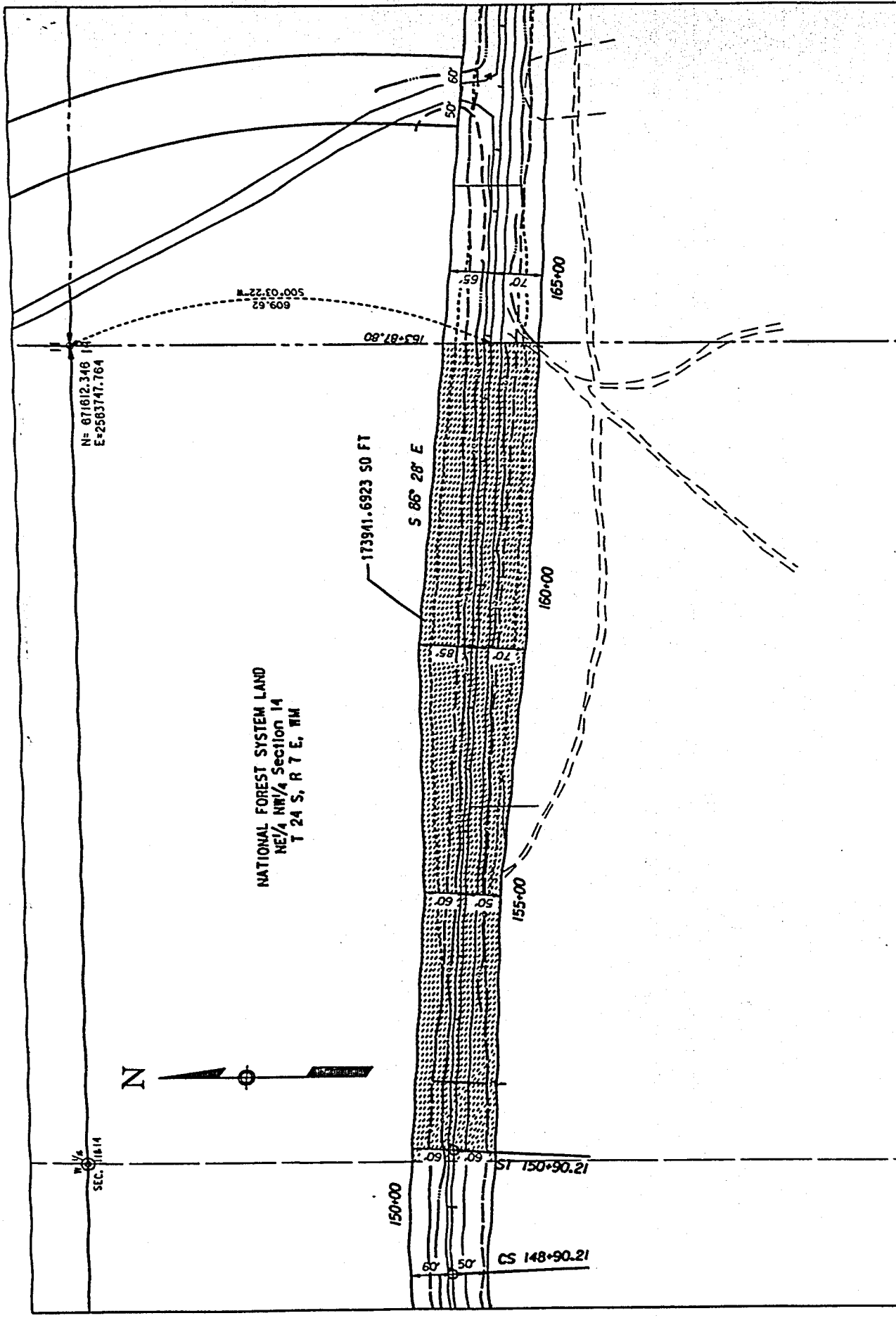
Scale: 1" = 100'

Date: NOVEMBER 1993

FOREST HIGHWAY PROJECT PFH 48-1131
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO. 61-COUNTY RD. NO. 1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
610 East Fifth Street
Vancouver, WA 98661
Date: 1993
Drawing by: FHWA
Date: NOVEMBER 1993

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
NW/4 NW/4 Section 14, T 14 S, R 7 E, WM

16625



16626

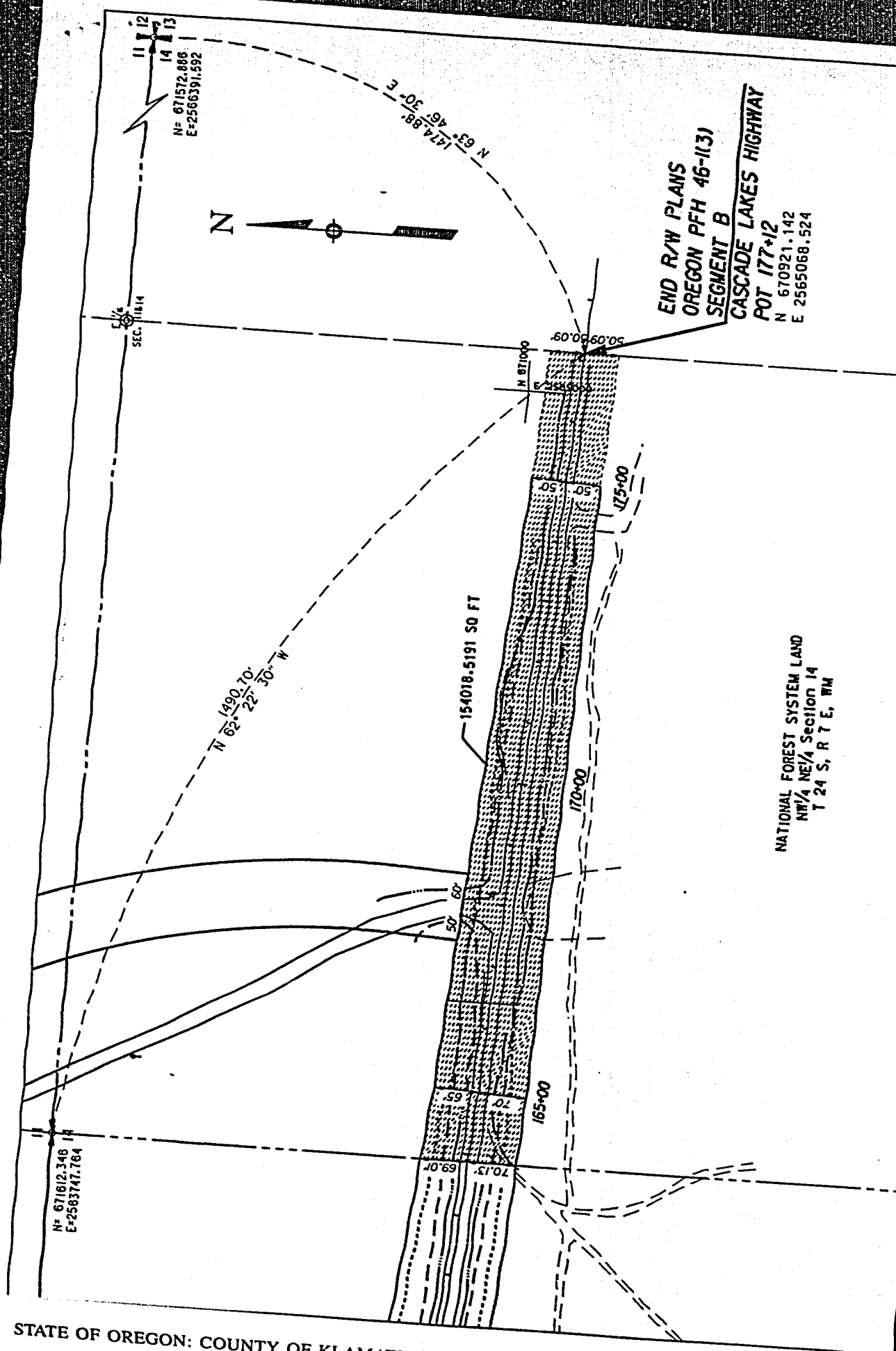
RIGHT-OF-WAY GRANT
Right-of-Way in acres:
This Sheet: 3.99
This Grant: 48.94
Exhibit A
Sheet 13 of 14

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
NE 1/4 NW 1/4 Section 14, T 24 S, R 7 E, WM

FOREST HIGHWAY PROJECT PFH 46-113)
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO. 61-COUNTY RD. NO. 1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
Date: 1993 Vancouver, WA 98681
Drawing by: FHWA
Date: NOVEMBER 1993

Survey Performed with:
Electronic Surveying Instrument
Basis of Bearing:
GPS State Plane
SCALE IN FEET
0 100 200

08045308.DGN



Survey Performed with:
Electronic Surveying Instrument

Basis of Bearing:
GPS State Plane

SCALE IN FEET
0 50 100 200

FOREST HIGHWAY PROJECT PFH 46-11(3)
CASCADE LAKES HIGHWAY
CRESCENT CUTOFF RD. NO. 61-COUNTY RD. NO. 1351
Surveyed by: FEDERAL HIGHWAY ADMINISTRATION
Date: 1993
Drawing by: FHWA
Date: NOVEMBER 1993

DESCHUTES NATIONAL FOREST
RIGHT-OF-WAY PLAT
Description of Land:
NW 1/4 NE 1/4 Section 14, T 24 S, R 7 E, NM

RIGHT-OF-WAY GRANT
Right-of-Way in acres:
This Sheet: 3.58
This Grant: 48.94
Exhibit A
Sheet 14 of 14

16627

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County
of May A.D., 19 94 at 3:18 o'clock P M., and duly recorded in Vol. M94 day
of Deeds on Page 16608

FEE none
Return: Earl Kessler/Public Works

Evelyn Biehn
By Wendy M. Kessler County Clerk