

'95 DEC 12 A9:43

ODOT  
File 6325 002  
File 6325 004

## HIGHWAY EASEMENT DEED

THIS DEED, made this 9<sup>th</sup> day of November, 19 95, 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, 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 Klamath Falls - Lakeview Highway No. 140, 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 Fremont National Forest, County of Klamath, State of Oregon:

Township 37 South, Range 15 East, W.M.  
Section 22, NE 1/4 NE1/4

Township 37 South, Range 16 East, W.M.  
Section 30, NW 1/4 SE1/4

as shown on six (6) 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.
- (2) The Grantee and the Forest Supervisor 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.

10-25-95

RETURN TO  
OREGON DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY SECTION  
417 TRANSPORTATION BLDG.  
SALEM, OREGON 97310

- (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.

- (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 Supervisor 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 Supervisor 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 Supervisor or when deemed appropriate, supplemented by written stipulation between the Forest Supervisor and the Grantee, prior to the start of construction or reconstruction.

The final design and the construction specification 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 stipulations 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 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 Forest Supervisor 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 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, sex, 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) 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 as said Regulations may be amended.
- (9) In the event of breach of any of the above-mentioned nondiscrimination conditions, the DEPARTMENT shall have the right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation, and its assigns, as such interest existed prior to this instrument.

- (10) When need for the easement herein granted no longer exists, the Grantee shall give notice of the 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.

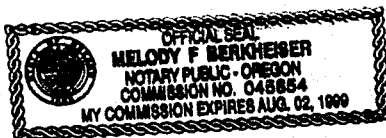
UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

By [Signature]  
Robert B. Rutledge, Regional Counsel

STATE OF OREGON )  
COUNTY OF MULTNOMAH )

I, Melody F. Berkheiser, a Notary Public in and for the State of Oregon, do hereby certify that on this 9 day of November, 1995, before me personally appeared Robert B. Rutledge, Regional Counsel, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of November 9, 1995, 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 9<sup>th</sup> day of November, 1995.



Melody F. Berkheiser  
Notary Public for Oregon

My Commission expires Aug. 02, 1999

33804

ODOT  
File 6325 002  
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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

Deane R. Holmann  
Assistant Attorney General

Date

10/27/95STATE OF OREGON, by and through its DEPARTMENT  
OF TRANSPORTATION

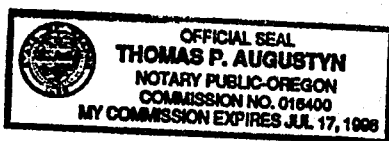
By

Deolinda G. Jones  
Deolinda G. Jones, Acting Right of Way Manager

STATE OF OREGON, County of Marion

12-419 95

Personally appeared Deolinda G. Jones, who being sworn, stated that she is the Acting Right of Way Manager for the State of Oregon, Department of Transportation, and that this document was voluntarily signed on behalf of the State of Oregon by authority delegated to her. Before me:

Thomas P. Augustyn  
Notary Public for Oregon

My Commission expires

7/17/98

10-25-95

Page 5 - Highway Easement Deed

mlb/

33805

## EXHIBIT A

## RIGHT OF WAY GRANT

OREGON DEPARTMENT OF TRANSPORTATION

Located Line

## PARADISE CREEK - KLAMATH COUNTY LINE SEC.

KLAMATH FALLS - LAKEVIEW HIGHWAY

PROJECT NO. SO-20(3)

FILE NO. R 6325002

KLAMATH COUNTY, OREGON

MAY, 1995

RIGHT OF WAY PLATS

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

FREMONT NATIONAL FOREST

NE 1/4 NE 1/4 SEC. 22, T. 37 S., R. 15 E., W.M.  
0.62 Ac.±

TOTAL RIGHT OF WAY: 0.62 Ac.±

BEARINGS: Oregon Coordinate System of 1983, South Zone.

COORDINATES: This drawing utilizes a Local Datum Plane (LDP) which is relative to the Oregon Coordinate System of 1983, South Zone, with respect to the local latitude and ground distances. The LDP coordinates define true ground distances. To convert the LDP coordinates to the Oregon Coordinate System of 1983, South Zone, multiply the LDP coordinates by 0.9997663 and by the metric conversion factor of 0.3048.

This drawing was prepared from an Oregon State Highway Division survey contracted by David Evans and Associates, Inc., 709 NW Wall Street, Suite 102, Bend, Oregon 97701. The survey transit notes are retained in the files as field book number

## 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: *Richard E. Smith*Date: *May 2, 1995*

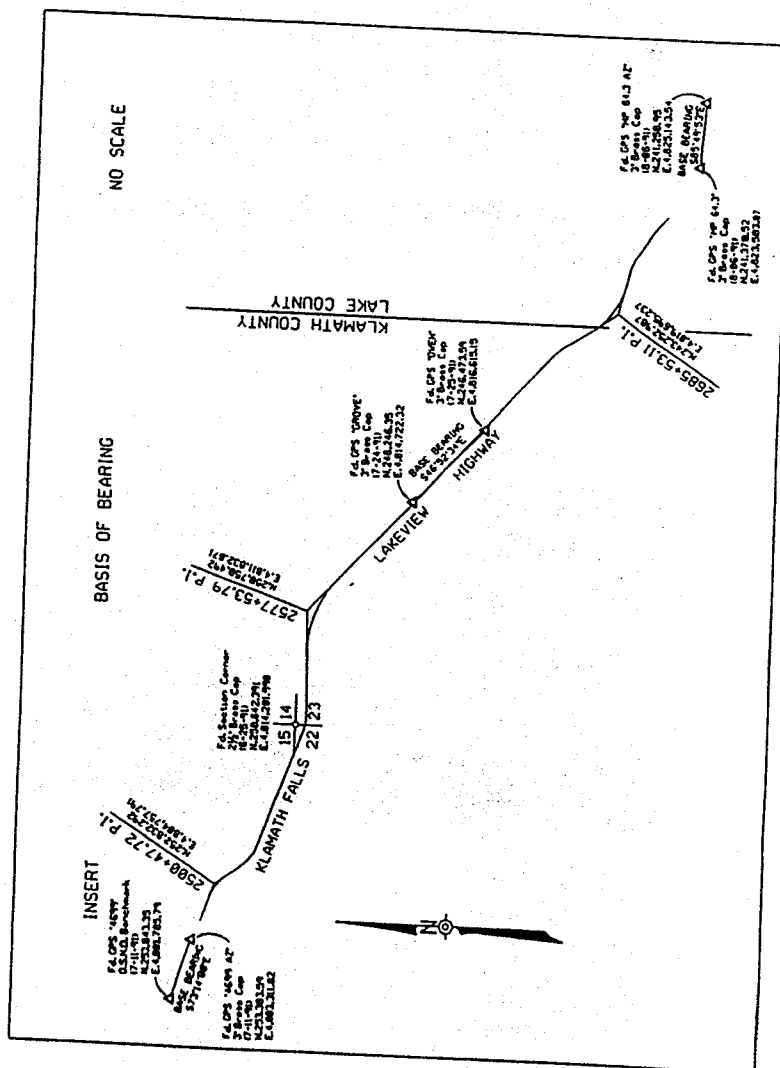
SHEET 1 OF 3

11-MAY-1995

/usr/rw/projects/01132/01132-rwl.420

V10001

11-MAY-1995



PARADISE CREEK - KLAMATH COUNTY (LINE SEC.)  
KLAMATH FALLS - LAKEVIEW HIGHWAY  
KLAMATH COUNTY, OREGON

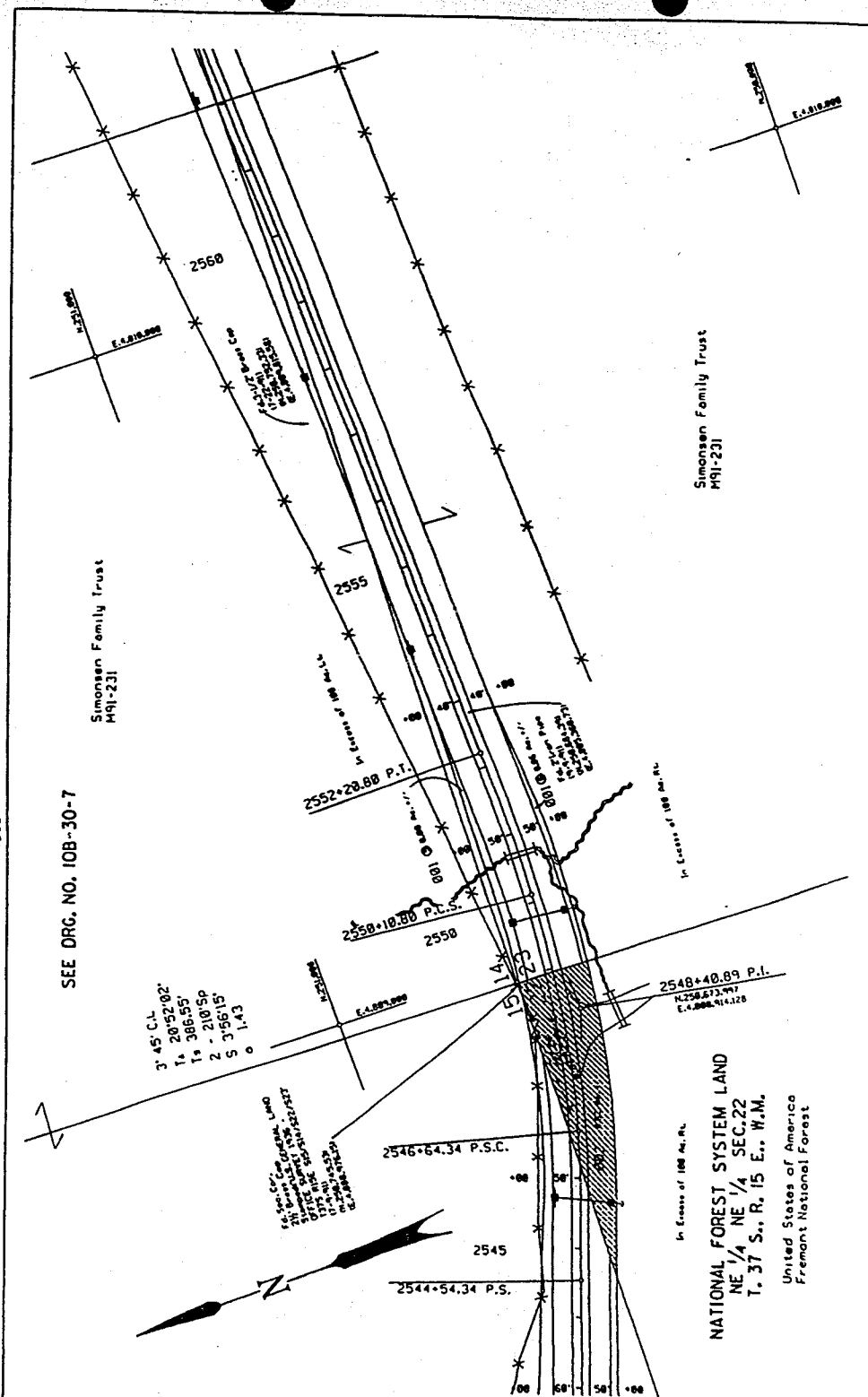
**FREMONT NATIONAL FOREST**  
**RIGHT OF WAY PLAT**  
Description of Land;

**RIGHT OF WAY GRANT**

**TOTAL RIGHT OF WAY: 0.62 AC.±**

EXHIBIT A  
SHEET 2 OF 3

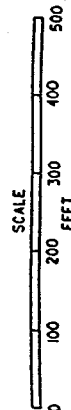
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PARADISE CREEK - KLAMATH COUNTY LINE SEC.  
KLAMATH FALLS - LAKEVIEW HIGHWAY  
KLAMATH COUNTY, OREGON

FREMONT NATIONAL FOREST  
RIGHT OF WAY PLAT  
Description of Land:  
NE 1/4 NE 1/4 SEC. 22, T. 37 S., R. 15 E.,  
0.62 AC.<sup>±</sup>

RIGHT OF WAY GRANT  
TOTAL RIGHT OF WAY 0.62 AC.  
EXHIBIT A  
SHEET 3 OF 3





## EXHIBIT A

## RIGHT OF WAY GRANT

OREGON DEPARTMENT OF TRANSPORTATION

Located Line

## PARADISE CREEK - KLAMATH COUNTY LINE SEC.

KLAMATH FALLS - LAKEVIEW HIGHWAY

PROJECT NO. SO-20(3)

FILE NO. R 6325004

LAKE COUNTY, OREGON

FEBRUARY, 1995

RIGHT OF WAY PLATS

U.S.D.A.

FOREST SERVICE

PACIFIC NORTHWEST REGION

NW 1/4 SE 1/4 SEC. 30, T. 37 S., R. 16 E., W.M.

0.24 Ac±

TOTAL RIGHT OF WAY: 0.24 Ac±

BEARINGS: Oregon Coordinate System of 1983, South Zone.

COORDINATES: This drawing utilizes a Local Datum Plane (LDP) which is relative to the Oregon Coordinate System of 1983, South Zone, with respect to the local latitude and ground distances. The LDP coordinates define true ground distances. To convert the LDP coordinates to the Oregon Coordinate System of 1983, South Zone, multiply the LDP coordinates by 0.9997663 and by the metric conversion factor of 0.3048.

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- - - Top of Cut Slope
- Toe of Fill Slope
- ⊙ Access Point
- Found Monument As Noted
- ▤▤▤▤ Right Of Way Grant Area

Accepted By: *Richard E. Smith*Date: *Mar 13 1995*

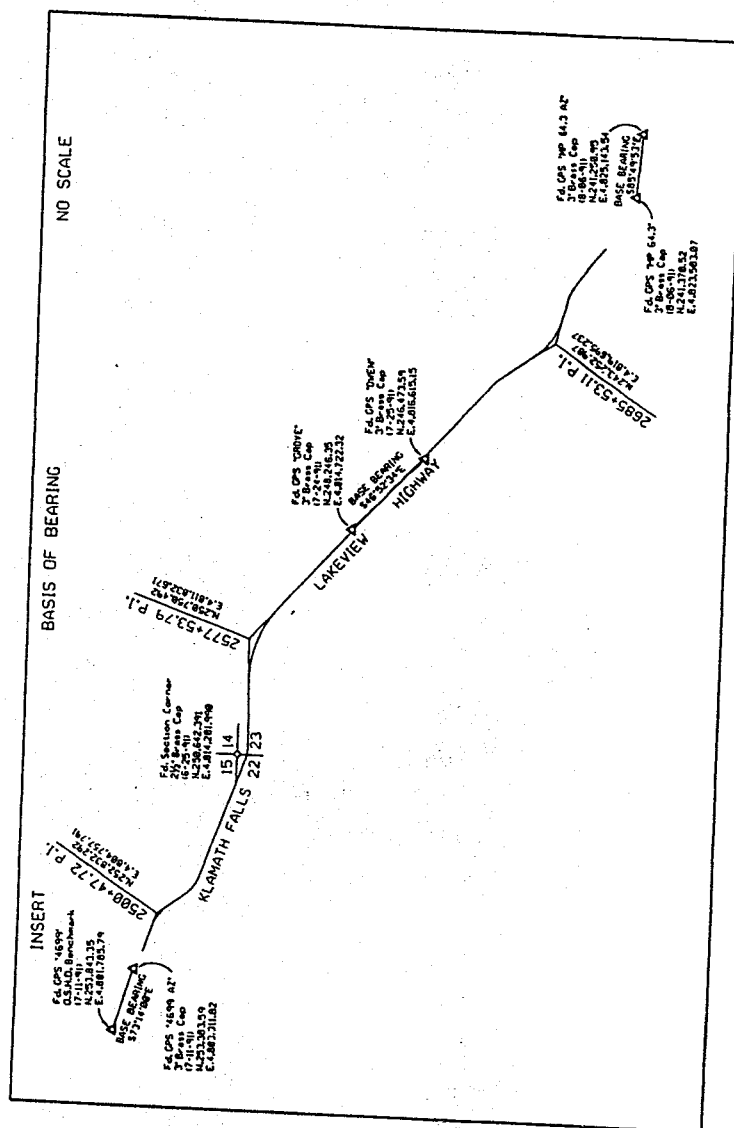
SHEET 1 OF 3

16-FEB-1995

/usr/rw/projects/01132/01132rw2.f20

VIEW-P1

16-FEB-1995



<p>PARADISE CREEK - Klamath County Line Sec.          Klamath Falls - Lakeview Highway          Lake County, Oregon</p>	<p>FREMONT NATIONAL FOREST          RIGHT OF WAY PLAT          Description of Land:</p>	<p>RIGHT OF WAY GRANT          TOTAL RIGHT OF WAY: 0.24 Ac.±</p>
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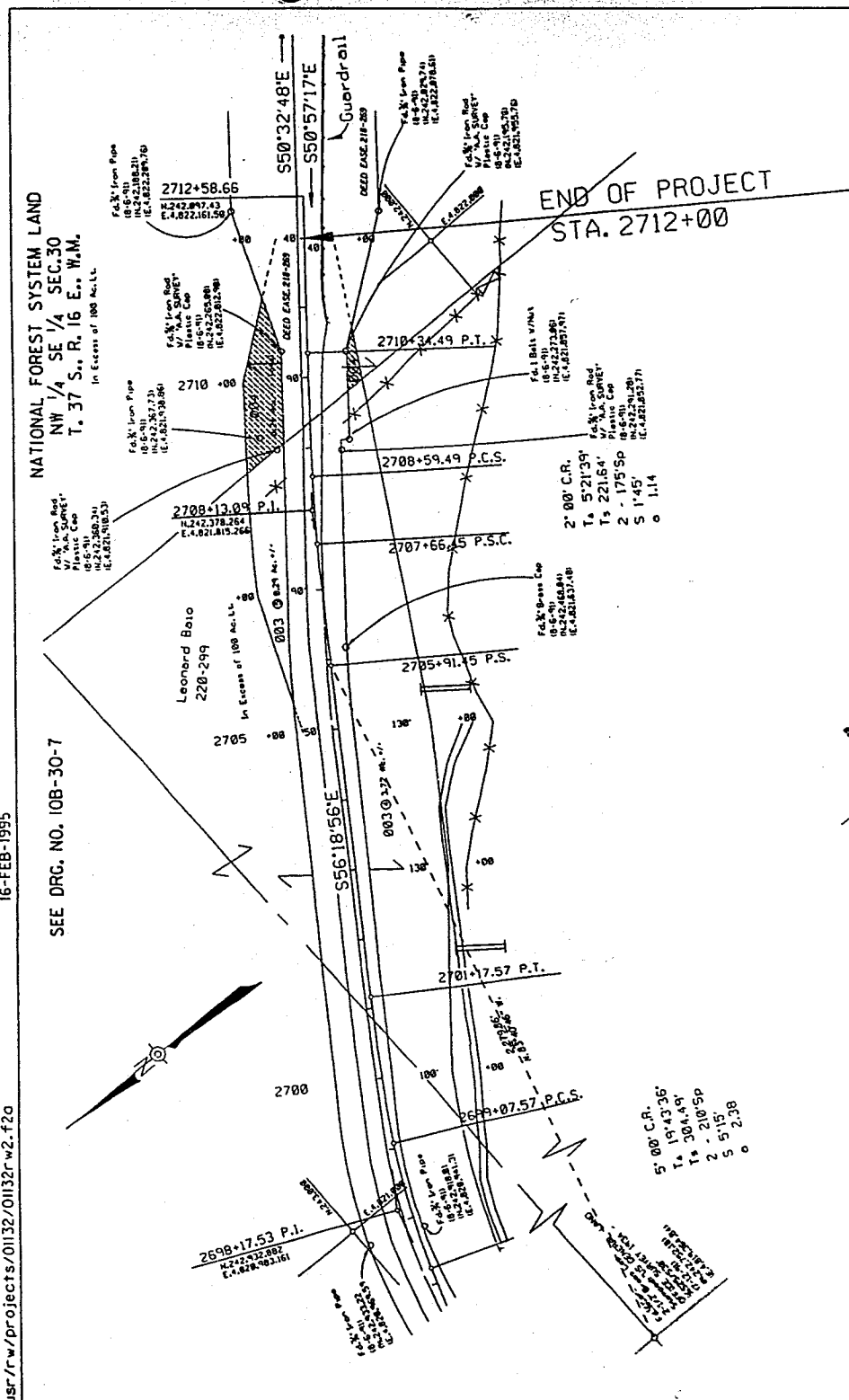
EXHIBIT A  
 SHEET 2 OF 3

usr/rw/projects/01132/01132rw2.f2a

16-FEB-1995

SEE DRG. NO. 108-30-7

NATIONAL FOREST SYSTEM LAND  
NW 1/4 SE 1/4 SEC.30  
T. 37 S.. R. 16 E.. W.M.



RIGHT OF WAY GRANT

TOTAL RIGHT OF WAY: 0.24 AC.±

EXHIBIT A  
SHEET 3 OF 3

FREMONT NATIONAL FOREST  
RIGHT OF WAY PLAT  
Description of Lands

0.24 AC.±

LAKE COUNTY, OREGON

PARADISE CREEK - KLAMATH COUNTY LINE SEC.  
KLAMATH FALLS - LAKEVIEW HIGHWAY

**STATE OF OREGON: COUNTY OF KLAMATH: ss.**

Filed for record at request of \_\_\_\_\_ the 12 day  
of \_\_\_\_\_ Dec. \_\_\_\_\_ A.D., 19 95 at 9:43 o'clock A. M., and duly recorded in Vol. M95,  
of Deeds \_\_\_\_\_ on Page 33800.

**FEE \$60.00**

By Bernetha G. Letsch, County Clerk  
*Cheryl Russell*