

State of Oregon, County of Klamath
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Vol M04 Pg 84050-54
Linda Smith, County Clerk
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04 DEC 8 AM 8:36

STATE OF OREGON
Department of State Lands

EASEMENT NO. 32994-EA

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR,
for and in consideration of providing a public highway, hereby grants to GRANTEE,

pk. NAME of GRANTEE:
Oregon Department of Transportation

ADDRESS:
63085 N Highway 97, Suite 102
Bend OR 97701

an easement and right to construct and maintain a public highway within the right-of-way boundaries of Oregon State Highway No. 97 over, upon, and across the following particularly described property situated in Klamath County, Oregon, more particularly described as follows:

A parcel of land lying in the unsurveyed land lying northerly of Lot 5 of Section 6, Township 37 South, Range 9 East, W.M., Klamath County, Oregon and southwesterly of Lot 11 of said section; the said parcel being that portion of said unsurveyed land lying westerly of that property described in that Deed to Klamath County, recorded March 2, 1962 in Book 336, Page 87 of Klamath County Record of Deeds and Easterly of Union Pacific Railroad right of way.

This parcel of land contains 2.00 hectares (4.94 acres), more or less

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.

2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
- (a) Changing the type of use authorized by this easement;
 - (b) Expanding the number of authorized developments or uses;
 - (c) Changing the authorized area; and/or
 - (d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.

3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.

4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.

5. Except as expressly authorized in writing by the Department, GRANTEE shall not:

- (a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
- (b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.

7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.

8. GRANTEE shall obtain a surety bond in the amount of \$-0- to ensure compliance with the terms and conditions of this easement.

9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.

10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.

11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: (Annually).

12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.

13. If this easement authorizes the use of state-owned submerged and/or submersible land:

- (a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
- (b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.

14. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.

15. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.

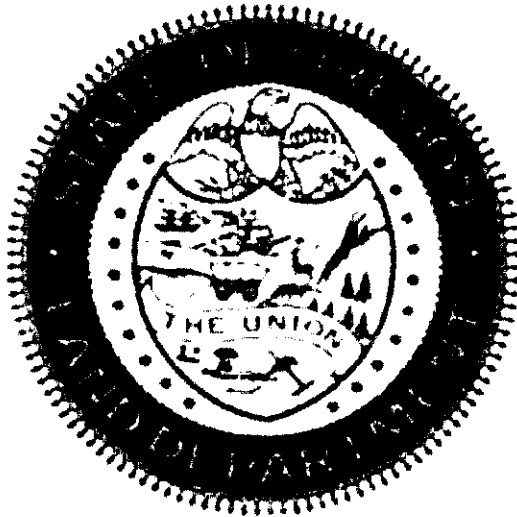
16. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin

17. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land.

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.

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WITNESS the seal of the Department of State Lands affixed this 16 day of November, 2004.



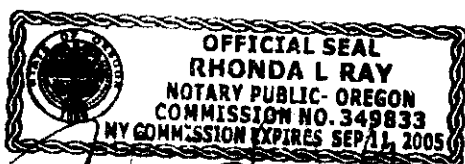
STATE OF OREGON, acting by and through its Department of State Lands

Nancy N Pustis
Nancy N Pustis
Eastern Region Manager

STATE OF OREGON)
)ss
County of Deschutes)

This foregoing instrument was acknowledged before me this 16th day of November, 2004, by Nancy N. Pustis, the E. Reg. Mgr. of the Department of State Lands.

R Rhonda L. Ray
Signature
My commission Expires 9/11, 2005 ^{SR}

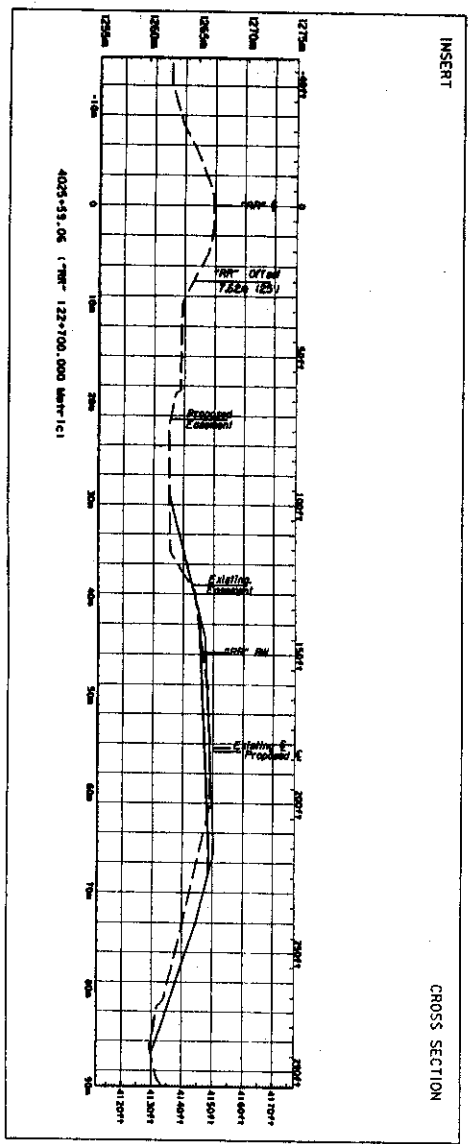
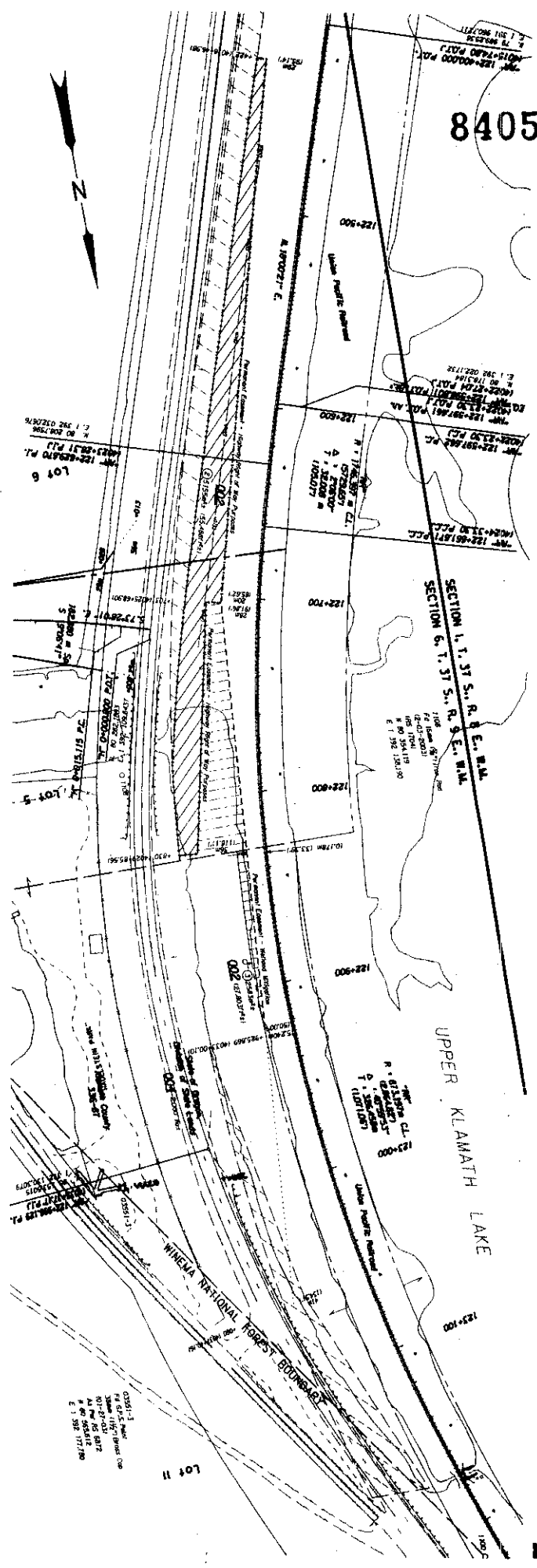


Accepted on behalf of the Oregon Department of Transportation

by [Signature]

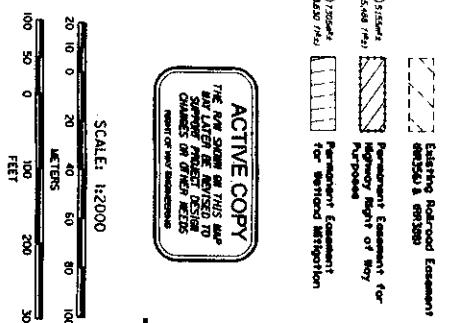
STATE TO
OREGON DEPARTMENT OF TRANSPORTATION
Bend Oregon
Hwy 97
32994-EA
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INSERT

CROSS SECTION



ACTIVE COPY
THIS IS THE SHOWN COPY OF THIS MAP
AND LATER BE REVISED TO
SHOW PROJECT DESIGN
CHANGES OR OTHER NEEDS
BASED ON NEW INFORMATION

**ENCROACHMENT ON
UNION PACIFIC
RAILROAD COMPANY**

EXHIBIT

OREGON DEPARTMENT OF TRANSPORTATION

R.R. ENCROACHMENT MAP

**US97: MODOC POINT
- ALGOMA, PHASE I SECTION**

THE DAILES-CALIFORNIA HIGHWAY

KLAMATH COUNTY

JULY, 2004