

HIGHWAY EASEMENT DEED

THIS DEED, made this 28 day of June, 20 06, 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 the The Dalles-California highway, 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 Winema National Forest, County of Klamath, State of Oregon:

T 36S, R7E, W.M. Klamath County
Lot 2 Sec. 26 2527 m2 more or less
Lot 3 Sec. 26 15 522 m2 more or less
Lot 4 Sec. 26 3916 m2 more or less

Total Right of Way: 2.200 ha, more or less

as shown on 3 sheets of right-of-way plats, marked Exhibit A, attached hereto and made a part hereof, subject however, to the following terms and conditions:

RETURN TO
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
355 CAPITOL STREET N RM 420
SALEM OR 97301 3871

4/11/2006

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jso

562
0706-706

as shown on 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 Regional Forester 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.
- (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 non-highway 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 non-highway 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 maintained clearing limits.
- (4) 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 supplemental 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 reconstruction 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

- (6) The Grantee shall establish no borrow, sand, or gravel pits, stone quarries, or permanent storage areas, 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 consultation with the Forest Supervisor. Consultation must address the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (8) 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.
- (9) 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.
- (10) 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, and its assigns, as such interest existed prior to this instrument.
- (11) Grantee shall comply with mitigation and resource protection measures, as outlined in the Modoc Point to Algoma U.S. Highway 97 Right-of-Way Use's Environmental Assessment and Decision Notice signed by Richard Ragan, Chiloquin District Ranger, on July 14, 2003.
- (12) Forest Service Archaeologists will determine the appropriate level of National Historic Preservation Act Section 106 compliance; Archaeological Resources Protection Act permits; and monitoring and documentation requirements.

IN WITNESS WHEREOF, I, David O. Cox, Division Administrator, 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.

APPROVED AS TO LEGAL SUFFICIENCY

Paul H. Wodde
Assistant Attorney General

Date April 19, 2006

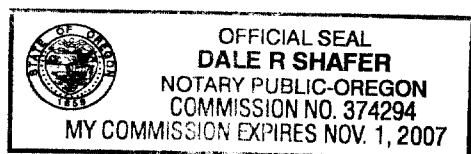
UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By [Signature]
David O. Cox, Division Administrator

STATE OF OREGON)
)
COUNTY OF MARION)

I, Dale R. Shafer, a Notary Public in and for the State of Oregon, do hereby certify that on this 28 day of June, 2006, before me personally appeared David O. Cox, Division Administrator, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of June 28, 2006, 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 Division Administrator, Federal Highway Administration.

Witness my hand and seal this 28 day of June, 2006.



Dale R. Shafer
Notary Public for Oregon
My Commission expires 11/01/2007

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.

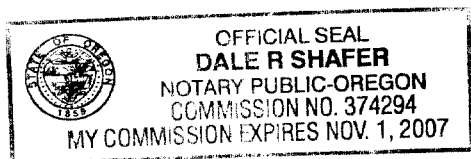
STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION

By Deolinda G. Jones
Deolinda G. Jones, State Right of Way Manager

STATE OF OREGON)
)
COUNTY OF MARION)

June 29, 2006. Personally appeared Deolinda G. Jones, who being sworn,
stated that she is the State 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:



Dale R. Shafer
Notary Public for Oregon
My Commission expires 11/01/2007

EXHIBIT A

RIGHT OF WAY GRANT

OREGON DEPARTMENT OF TRANSPORTATION

Located Line

US97: MODOC POINT - ALGOMA, PHASE 1 SECTION

THE DALLES-CALIFORNIA HIGHWAY

FILE NO. 7079003

KLAMATH COUNTY, OREGON

MARCH, 2004

RIGHT OF WAY PLATS

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

T. 36 S., R. 7 E., W.M.

Lot 2 SEC. 26 2527 m²±

Lot 3 SEC. 26 15 552 m²±

Lot 4 SEC. 26 3916 m²±

TOTAL RIGHT OF WAY: 2,200 ha±

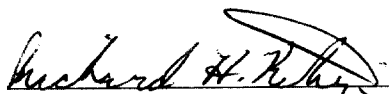
BEARINGS: Oregon Coordinate System of 1983(98), south zone.

COORDINATES: This drawing utilizes a Local Datum Plane (LDP) which is relative to the Oregon Coordinate System of 1983 (98), south zone, with respect to the local latitude and ground elevation. The LDP coordinates define true ground distances. To convert the LDP coordinates to the Oregon Coordinate System of 1983(98), south zone, multiply the LDP coordinates by 0.99978878.

FIELD NOTES: This drawing shows the results of an Oregon Department Of Transportation (ODOT) survey. The field survey notes, book number 3994 are available from ODOT files in Salem, Oregon.

Accepted By:

Reviewed By:


Signature


Signature

11/18/04 Date
Forest Engineer Title
Acting Forest Supervisor

11/10/04 Date
LAND SURVEYOR Title

LEGEND

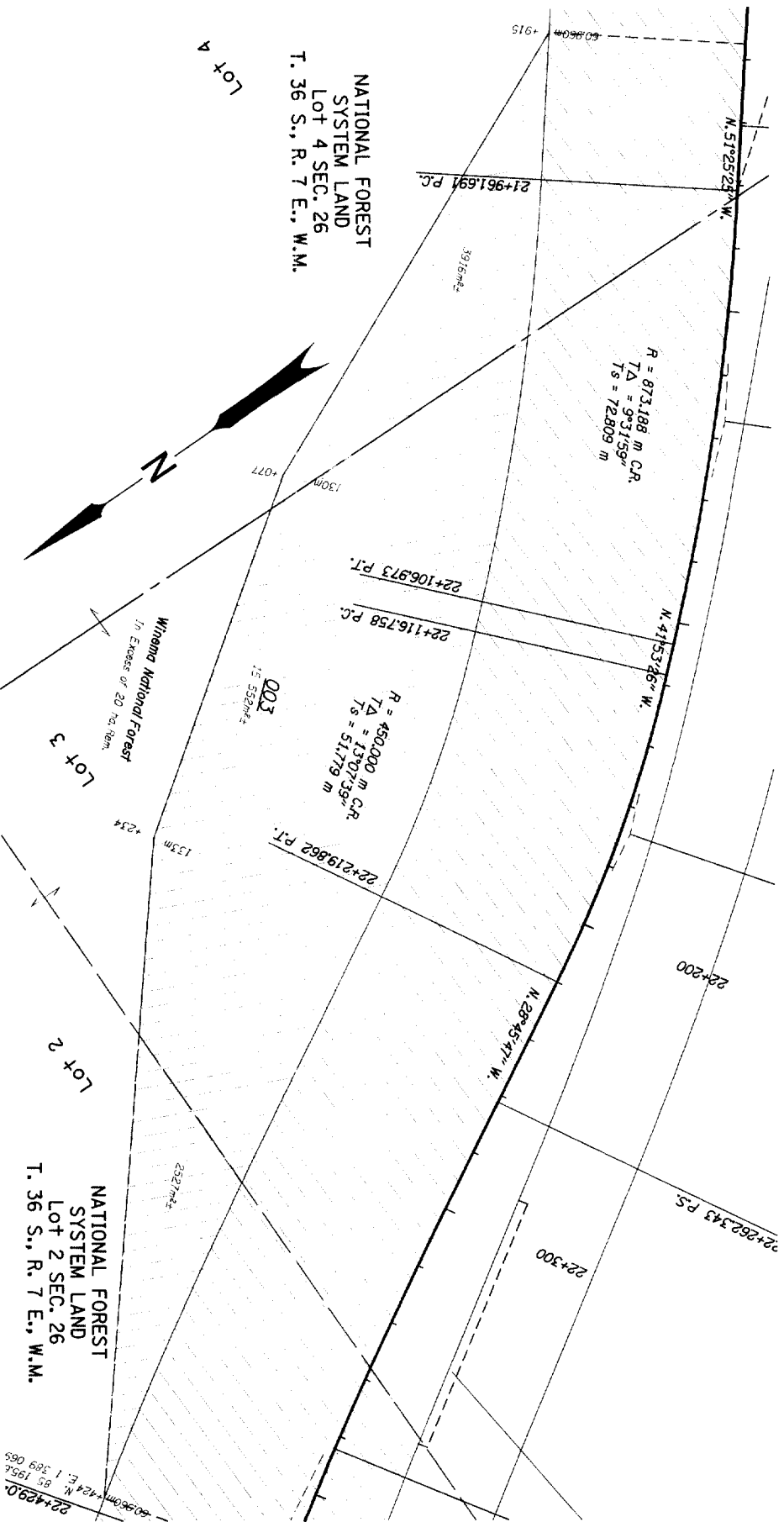
- Township or Range Line
- Section Line
- Quarter Section Line
- Sixteenth Section Line
- Existing Right of Way or Property Line
- Access Control Line
- Proposed Right of Way Line
- Top of Cut Slope
- Toe of Fill Slope
- Access Point
- Found Monument As Noted



Right of Way Grant Area

Existing RW Easement Per Certificate recorded
Aug. 18, 1958 in Book 302, Page 252 of Klamath
County Record of Deeds.

NATIONAL FOREST
SYSTEM LAND
Lot 3 SEC. 26
T. 36 S., R. 7 E., W.M.



03551-2



03551-3

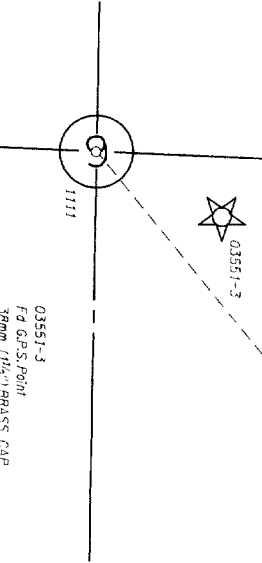
Section Corner Tie to Center Line
N 32° 10' 00" W
5716.235m

24+861.691 P.C.
N 32° 10' 00" W
E 132.124m
162.092m

THE DALLES-CALIFORNIA HIGHWAY

03551-2
F.d G.P.S. Point
38mm (1 1/2") Brass Cap
Stamped: 0001 Geodetic Control 03551-2
101-27-031
AS Per RS 6872
N 76 428.890
E 1 390 811.180

1111
F.d Center 1/4 Section Corner
76mm (3") Aluminum Cap on
51mm (2") Aluminum Pipe
Stamped: USDA FOREST SERVICE
"T 375 R9E"
"C 1/4 SE"
"2002"
"LS744"
UNLAWFUL TO DISTURB
102-10-031
N 80 218.533m
E 1 392 831.767m



**US97: MODOC POINT -
ALGOMA, PHASE 1 SECTION**

THE DALLES-CALIFORNIA HIGHWAY

KLAMATH COUNTY, OREGON

**WINEMA NATIONAL FOREST
RIGHT OF WAY PLAT**

RIGHT OF WAY GRANT

**EXHIBIT A
SHEET 3 OF 3**

NO SCALE