

2006-022924

Klamath County, Oregon



00008903200600229240130131

11/15/2006 03:49:07 PM

Fee: \$81.00

140 61

TRUST PARCEL 140 T 3004

LAND OFFICE SERVICES

2006 OCT 23 AM 7:00

GRANT OF EASEMENT FOR RIGHT OF WAY

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America for and on behalf of the Tribal Trust Landowner, owner of the land described as 140 T 3004, acting by and through the **Regional Director, Northwest Regional Office**, Bureau of Indian Affairs, Department of the Interior, 911 NE 11th Avenue, Portland, Oregon 97232, hereafter referred to as "Grantor", under authority contained in 209 DM 8, 230 DM 1, 3 IAM 4, 4a, does waive consideration and deposit for payment of damages and hereby grants to:

CHERYL AND LARRY MORTENSON

Hereinafter referred to as "Grantee", non-exclusive easement for right-of way, for a term of 30 years, for the following purposes, namely:

Ingress and Egress.

Over, across, in and upon the following described lands located in the County of Klamath, State of Oregon:

Section 19, Township 36 South, Range 12 East, Willamette Meridian, containing 40 acres, more or less, approximately 3/5 mile in length and twelve (12) feet in width, at the location of an existing road used for access.

This easement is subject to any valid existing right or adverse claim and without limitation as to tenure of 30 years, so long as said easement shall be actually used for the purpose above specified; PROVIDED, that this right-of-way shall be terminable in whole or part by the Grantor for any of the following causes upon 30 days written notice and failure by the Grantee within said notice period to correct the basis for termination (25 CFR 169.20):

- A. Failure to comply with any term or condition of the grant of the applicable regulation.
- B. A nonuse of the right-of-way for a consecutive two year period for the purpose for which it was granted.
- C. An abandonment of the right-of-way.

The conditions of this easement shall extend to and be binding upon and shall not prevent or limit access to Trust Parcel 140 T 3004 by the trust landowners or their lessees.

IN WITNESS WHEREOF, Grantor has executed this grant of easement this
19th day of October, 2006.

Approved by: _____

Northwest Regional Director
Bureau of Indian Affairs
911 NE 11th Avenue,
Portland, OR 97232

After recording, return to:
Shaylean T. Idrogo
Tribal Attorney
the Klamath Tribes
P.O. Box 215
Chiloquin, OR 97624



IN REPLY REFER TO:
Northwest Realty Officer

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Northwest Regional Office
911 N.E. 11th Avenue
Portland, Oregon 97232-4169



JUN 21 2006

Larry and Cheryl Mortensen
Post Office 352
Beatty, Oregon 97621

RE: Grant of Easement over Klamath Tribal trust land, allotment 140 T 3004

Dear Larry and Cheryl Mortensen:

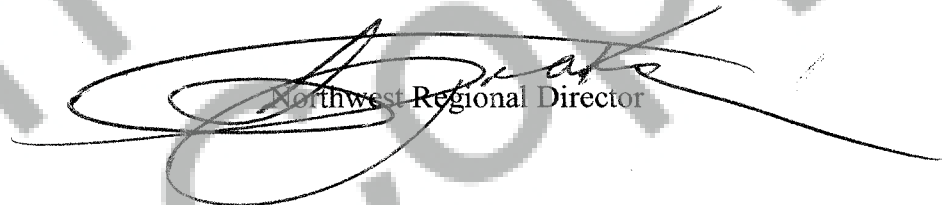
On May 2, 2006 you filed a request for grant of easement by letter for access to your residential property over Klamath tribal trust land. Please find enclosed the *Application for Grant of Right-of-Way* used by the Bureau of Indian Affairs to start the process. Complete the form and mail it to:

Bureau of Indian Affairs, Northwest Regional Office
Real Estate Services, attn: Alida Gulley
911 NE 11th Avenue
Portland, Oregon 97232

I will contact the Klamath Tribes regarding actions that are required from them.

If you have any questions please contact Alida Gulley, Realty Specialist at (503) 231-2237.

Sincerely,



Northwest Regional Director

cc: Shalene Idrogo, Klamath Tribal Attorney



IN REPLY REFER TO:
Northwest Realty Officer

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Northwest Regional Office
911 N.E. 11th Avenue
Portland, Oregon 97232-4169



APPLICATION FOR GRANT OF RIGHT-OF-WAY

Larry and Cheryl Mortensen, having a residence in Beatty, Oregon, with a mailing address at P.O. Box 352, Beatty, Oregon 97621, hereby file an application with the Bureau of Indian Affairs, pursuant to the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C 323), and to the regulations of the Department of the Interior contained in Title 25, Code of Federal Regulations, Part 169, for the grant of right-of way for the following purposes and reasons:

Across the following described Indian Land:

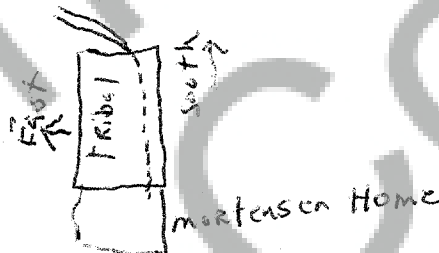
Klamath Tribes (140) T 3004:

Section 10, Township 36 South, Range 12 East, Klamath County, in the state of Oregon, Willamette Meridian.

Description: WWSE, containing 40 acres, more or less.

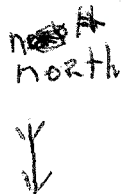
(see attachments)

Said right-of-way to be approximately 1/10 of a mile in length, 12' in width, and old Road that is there, and more particularly described and shown (size or area) on the map of definite location to be attached and made a part hereof.



needs no work on it
Can Drive it as is.
Runs parrell to tribes
Land north & south on west
Boundary.

Supp. 7, Release 1, 08-23-71



The applicant understands and hereby expressly agrees to the following stipulations:

- (a) To construct and maintain the right-of-way in a workmanlike manner.
- (b) To pay promptly all damages and compensation, in addition to the deposit made pursuant to § 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land on account of the survey, granting, construction and maintenance of the right-of-way.
- (c) To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, or subcontractors and their employees.
- (d) To restore the lands as nearly as may be possible to their original condition upon the completion of construction to the extent compatible with the purpose for which the right-of-way was granted.
- (e) To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project.
- (f) To take soil and resource conservation and protection measures, including weed control, on the land covered by the right-of-way.
- (g) To do everything reasonably within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
- (h) To build and repair such roads, fences, and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
- (i) That upon revocation or termination of the right-of-way, the applicant shall, so far as is reasonably possible restore the land to its original condition.
- (j) To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principle place of business and of the names and addresses of its principal officers.
- (k) That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.

IN WITNESS WHEREOF, Larry J. Mortensen and Cheryl L. Mortensen has caused this instrument to be executed this 7th day of July 2006.

200 6.

James Harkler
WITNESS

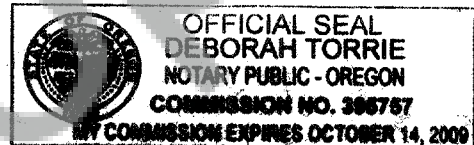
Larry J. Mortensen
APPLICANT

Patricia Doumar
WITNESS

Cheryl L. Mortensen
APPLICANT

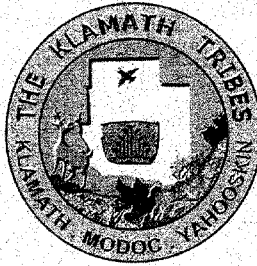
State of Oregon
County of Klamath

Notary Deborah Torrie
SUPPORTING DOCUMENTS



- ☒ Written consent of the landowner(s).
- ☒ Evidence of good faith and financial responsibility.
- ☒ N/A estimated damages.
- ☒ Map of definite location.
- ☐ Other:

Supp. 7, Release 1, 08-23-71



140 61

The Klamath Tribes

Tribal Council

TRIBAL COUNCIL RESOLUTION #2006-26

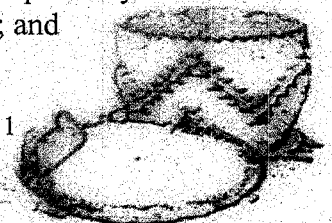
TRIBAL COUNCIL RESOLUTION AUTHORIZING GRANT OF RIGHT-OF-WAY ACROSS KLAMATH TRIBES RESERVATION LAND

- Whereas,** The Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians signed the Treaty of 1864 establishing the Klamath Reservation; and
- Whereas,** The General Council of the Klamath membership is the governing body of the Tribes, by the authority of the Constitution of the Klamath Tribes (Article VI, & VII, Section IV E) as approved and/or adopted by the General Council amended on November 25, 2000; and
- Whereas,** The Klamath Indian Tribes Restoration Act of August 27, 1986 (P.L. 99-398) restored to federal recognition the Sovereign Government of the Tribes' Constitution and By-laws; and
- Whereas,** The Klamath Tribes Tribal Council is the elected governmental body of the Tribes and has been delegated the authority to direct the day-to-day business and governmental affairs of the Klamath Tribes under the general guidance of the General Council (Constitution, Article VII, Section I; Tribal Council By-laws, Article I); and
- Whereas,** The Klamath Tribes owns Reservation property described as Klamath Tribes (140) Tract No. T3004: W1/2W1/2SE1/4 Section 19, Township 36 South, Range 12 EWM, Klamath County, Oregon, containing 40 acres, more or less; and
- Whereas,** Klamath Tribal member Cheryl Mortenson and her husband, Larry Mortenson own property adjacent to and North of said Tribal property, described as the W1/2SW1/4NE1/4 Section 19, Township 36 South, Range 12 EWM, containing 20 acres, more or less as shown in the Professional Survey map prepared by Jim Weddle on April 22, 1981 ("Survey Map") attached as Exhibit A; and

TCR 2006-26

501 Chiloquin Blvd. – P.O. Box 436 – Chiloquin, Oregon 97624
(541) 783-2219 – Fax (541) 783-3706

Page 1



- Whereas,** Cheryl and Larry Mortenson desire to construct a home on their privately owned property; and
- Whereas,** Whereas, Cheryl and Larry Mortenson submitted an Application for Grant of Right-of-Way ("Application" attached as Exhibit B) on July 7, 2006 for ingress and egress across said Reservation property to their privately owned property for residential purposes, approximately three fifths (3/5) mile in length and twelve (12) feet in width at the location of an existing road used for access, as illustrated on the photos attached as Exhibits C and D, the approximate location further identified by the Survey Map (refer to Exhibit A); and
- Whereas,** The subject Reservation land is under the jurisdiction of the Klamath Tribes; and
- Whereas,** The Klamath Tribes Tribal Council has determined that it is appropriate to grant to Cheryl and Larry Mortenson a right-of-way over said Reservation land, for the sole and limited purpose of ingress and egress to their privately owned property, for a term of thirty years from the date of such grant, subject to each of the stipulations made by the Mortenson's in their July 7, 2006 Application (refer to Exhibit B), and agreement to save and hold harmless the Klamath Tribes from any and all claims of third parties arising from the Applicant's use, or authorized use of such right-of-way; and
- Whereas,** The Klamath Tribes Tribal Council has determined that the right-of-way shall be granted without monetary consideration subject to the express conditions of this Resolution and applicable laws of the Klamath Tribes and the United States;
- Now therefore be it resolved,** That the Klamath Tribes Tribal Council hereby authorizes the granting to Larry and Cheryl Mortenson a right-of-way over Klamath Tribes parcel (140) T 3004: Section 19, Township 36 South, Range 12 East, EWM, containing 40 acres, more or less, approximately 3/5 mile in length and twelve (12) feet in width, at the location of an existing road used for access as identified herein. Such right-of-way shall be for a term of thirty years and shall be for the sole and limited purpose of ingress and egress to their privately owned property for residential purposes. Such grant shall be subject to each of the stipulations made by the Mortenson's in their July 7, 2006 Application, and agreement to save and hold harmless the Klamath Tribes from any and all claims of third parties arising from the Applicant's use, or authorized use of such right-of-way. Such grant shall be without monetary consideration, subject to the applicable laws of the Klamath Tribes and the United States.
- Be it further resolved,** That the right-of-way shall be for the sole and limited purpose of private residential access and commercial use of any type is prohibited. This

Resolution and the granting of the right-of-way do not convey any ownership rights or interests in the underlying land and such right-of-way will be strictly a right to cross the land. The Klamath Tribes retains the sole and exclusive jurisdiction over the lands subject to the right-of-way and, except as to the rights granted to the Applicant, shall maintain full use and control of the property.

Be it further resolved, That any disputes regarding interpretation of the terms of the right-of-way, its implementation, enforcement, liabilities, or any other matter related to the granting and use of the right-of-way shall be construed in accordance with the laws of the Klamath Tribes and applicable federal laws and shall be heard in the courts of the Klamath Tribes unless otherwise prohibited by the laws of the United States.


Be it further resolved, That nothing in this Resolution and authorization for grant of right-of-way shall be interpreted or construed as a waiver of the sovereign immunity of the Klamath Tribes or its officials or employees.


Be it further resolved, That the right-of-way granted may be prepared so as to bind and inure to the benefit of, as the circumstances may require, not only the parties hereto, but also the respective heirs, assigns and successors in interest to the Mortenson property. The grant of right-of-way shall expire after a period of thirty years from the date of its execution and approval.

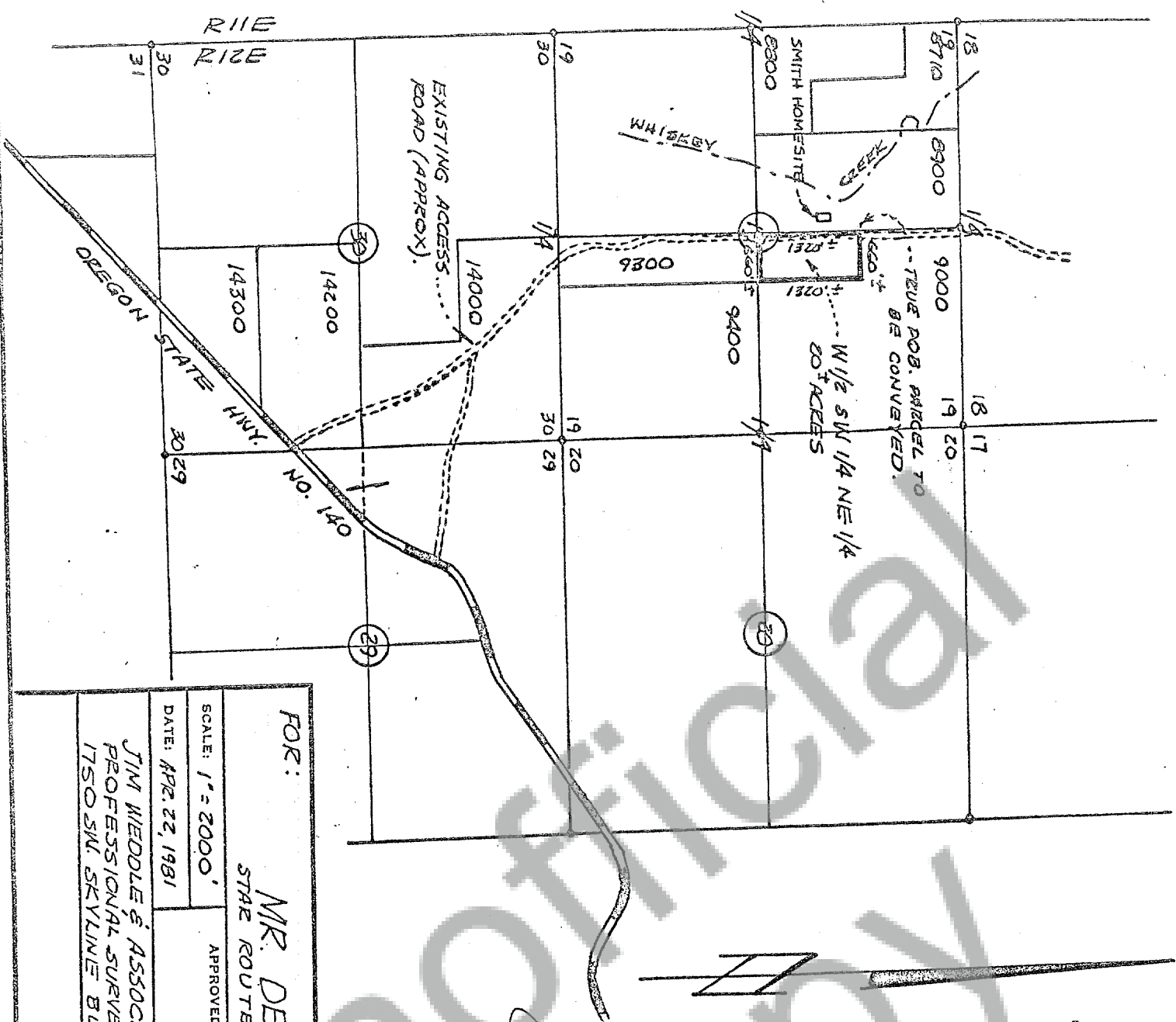
Be it finally resolved, That the Klamath Tribes Chairman shall have the authority to execute documents as necessary to facilitate the granting of the right-of-way in accordance with the intent of this Resolution.

Certification

We, the undersigned, Tribal Council Chairman and Secretary of the Klamath Tribes, do hereby certify that at a scheduled Tribal Council meeting held on the 12th day of October, 2006, the Tribal Council duly adopted this resolution by a vote of 7 for, 1 opposed, and 1 abstentions.


Allen Foreman
 Chairman
 The Klamath Tribes


Torina Case
 Secretary
 The Klamath Tribes



MAP OF W 1/2 SW 1/4 NE 1/4 SEC. 19, T.36S, R.12E, W.M., KLAMATH COUNTY, OREGON, WITH APPROX. LOCATION OF ACCESS ROAD.

MAP WITH ACCOMPANYING DESCRIPTION FOR CONVEYANCE OF OWNERSHIP OF THE W 1/2 SW 1/4 NE 1/4 FROM MAPS KLAMATH COUNTY DEPT. ASSESSMENT AND TAXATION.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Jim Weddle 4/22/81
OREGON
JULY 12, 1968
JAMES O. WEDDLE
874

Exhibit A

FOR:

MR. DELL SMITH
STAR ROUTE, BEATTY, OREGON

SCALE: 1" = 2000'

APPROVED BY:

DRAWN BY JW.

DATE: APR. 22, 1981

REVISED

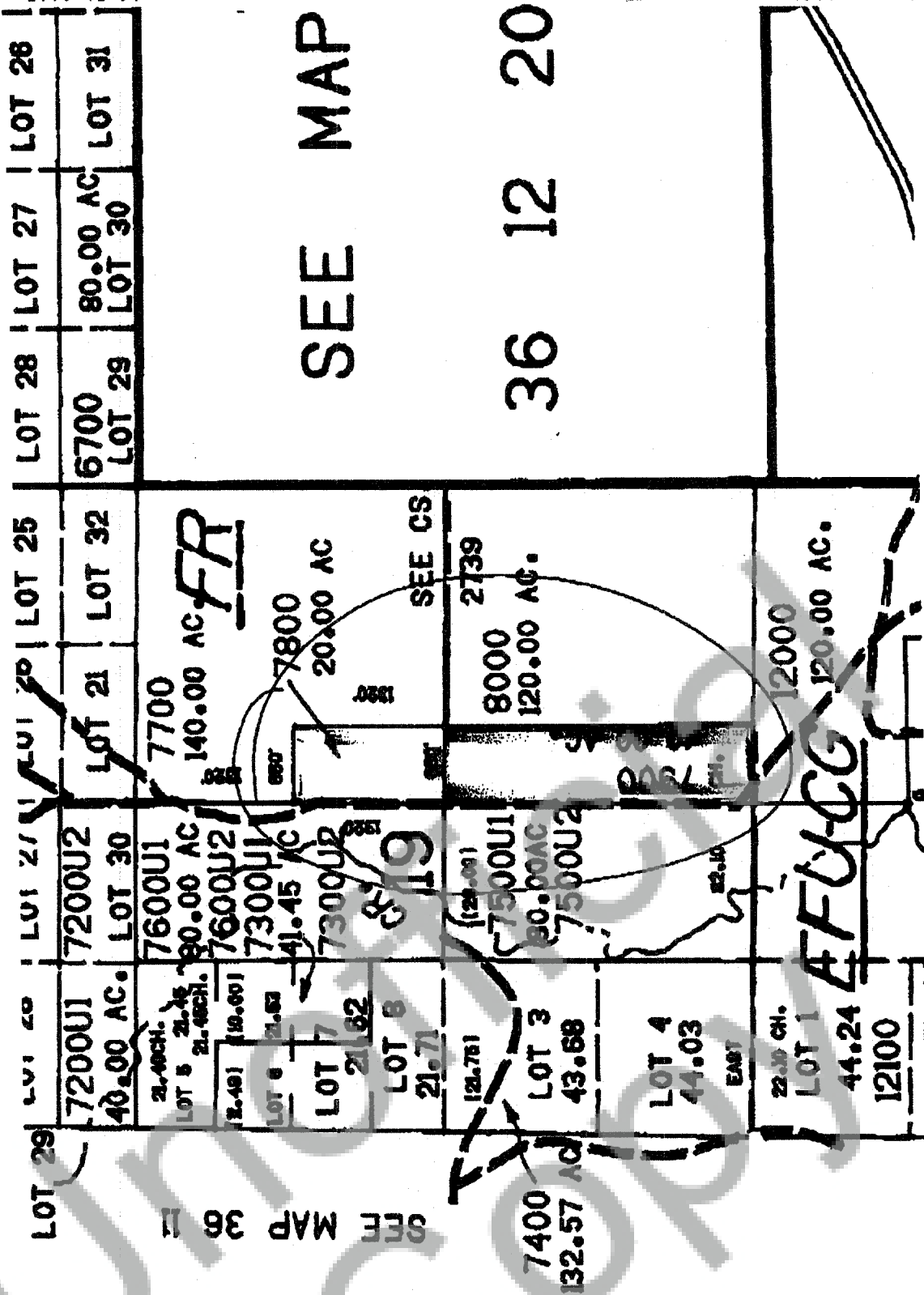
JIM WEDDLE & ASSOCIATES, INC.
PROFESSIONAL SURVEYORS & ENGINEERS
1750 SW. SKYLINE BLVD., PORTLAND, OR. 97205

DRAWING NUMBER

14061

SEE
MAP

36 12 20



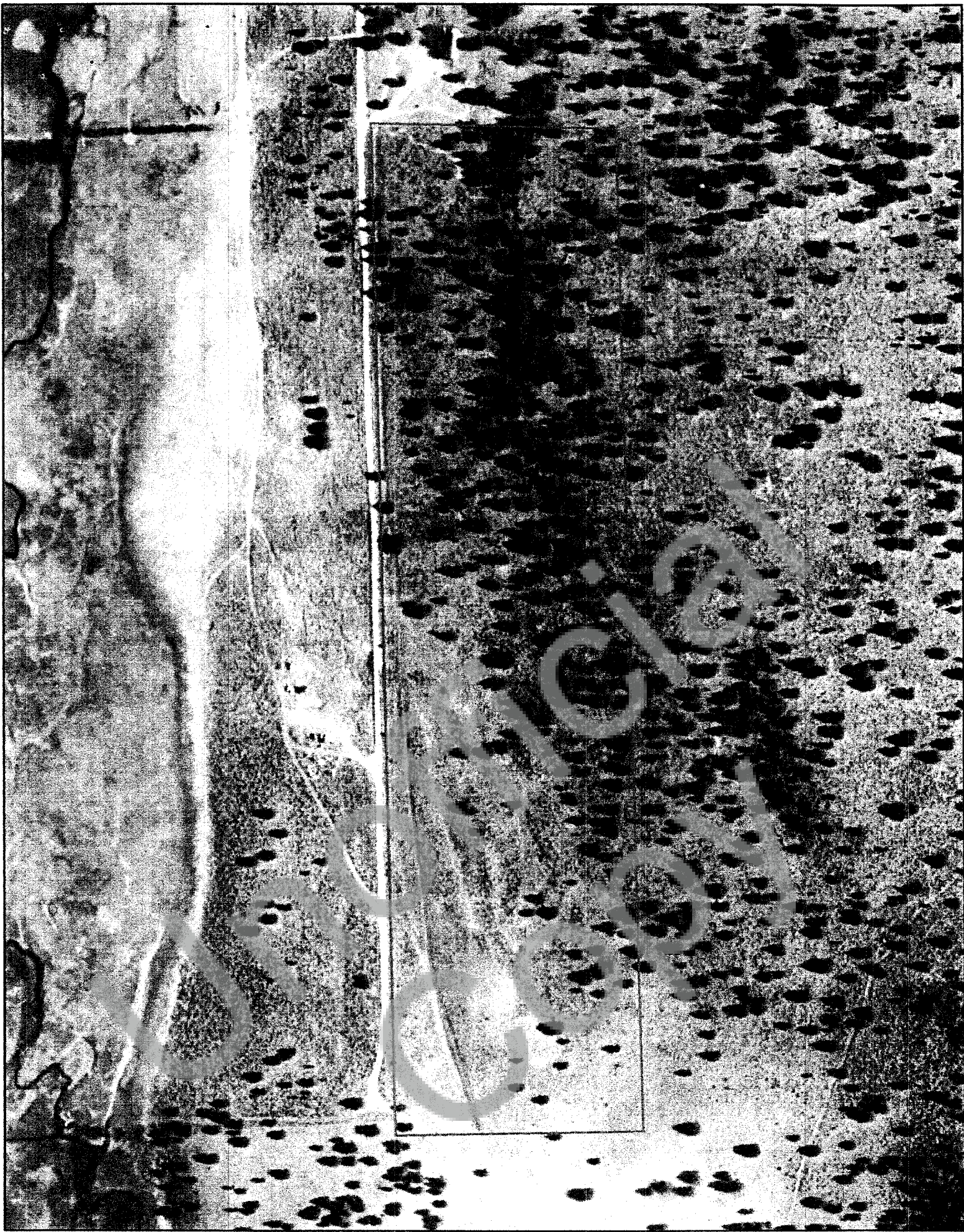


Exhibit C

140 61 - - -



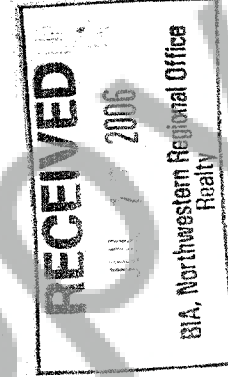
Exhibit D

140 61

Mortenson
P.O. Box 352
Beatty OR 97624

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NORTHWEST REGIONAL OFFICE
911 NE 11TH AVE.
PORTLAND, OREGON 97232-4169

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300



Alida Gulley, Real Estate Services
Bureau of Indian Affairs, NWRG
911 NE 11th Avenue
Portland, OR 97232

DOCUMENT TRANSMITTAL MEMO

To: Portland Title Plant

Date: 10/19/2006

From: Realty NWRO - Alida

Please record the attached document and:

- ☒ Return Alida
☐ Retain in Title Plant
☐ (Other - Specify) _____

Reservation (Code No. only) 140 Tract No. T 3004

Type Document (Code No.) 13

Agency's File No. (if any) _____

Alida R. Hulky
Authorized Signature

TRANSMITTAL ACKNOWLEDGEMENT

To: Alida - NWRO

Date: 10/23/06

From: Portland Title Plant

The document identified above has been recorded
under No. 140 61 (see date-time

stamp on reverse) and is:

- ☐ Returned herewith
☒ Retained
☐ _____

Dana M. Wilson

Authorized Signature

(TITLE PLANT USE ONLY)

Date entered in Recordation Register 10/23/06

EXAMINER'S REMARKS:

RECEIVED

OCT 23 2006
BIA, Northwestern Regional Office
Titles & Records

Q(11-69)

INITIAL