

2007-010967

Klamath County, Oregon

After Approval Signatures Return To:  
Tom K & Beverly C Carter  
85311 Jessie Lane  
Eugene, OR 97405



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06/19/2007 08:58:48 AM

Fee: \$61.00

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## EASEMENT AGREEMENT AND WAIVER

This Agreement is made between Klamath Northern Railway Co. (Grantor), and Tommy K. Carter and Beverly C. Carter, husband and wife (Grantees).

- A. Access Easement. In consideration of the payment provided and other valuable consideration provided, Grantor grants and conveys unto Grantee, its successors and assigns, a perpetual nonexclusive easement over an existing road named Railroad Road (Riverview Drive) as shown with "X's" on the Exhibit A map attached beginning at the intersection of 9770 and ending approximately 1 ½ miles to SCH2.

This Easement is granted and conveyed for the following purposes and upon the following terms and conditions:

1. This Easement is conveyed for ingress and egress for residential use of Grantee's property described as follows: Tax Lot 2508 01000 05000 000, legally described as the West one-half (W1/2) of the West one-half (W1/2) of the North one-half (N1/2) of the Southwest quarter of the Southwest quarter of Section 10, Township 25 South, Range 08 East, W.M., Klamath County, Oregon ("Grantee's Property").
2. Grantor shall have the right, but no obligation to maintain Railroad Road (Riverview Drive). Grantee expressly waives the provisions of ORS 105.170 to 105.185. Grantee shall repair any damage to said road caused by Grantee, its agents and employees.
3. Grantor shall have the right, but not the obligation, to control access of the public upon the Easement. In this connection, Grantor has the right to place a gate and lock on Railroad Road, and if Grantor exercises this right; Grantee will be provided access to the lock on the gate so that Grantee can open the gate. If Grantor places

a lock on the gate, Grantee shall keep the gate locked unless otherwise permitted by Grantor in writing.

4. The Grantee will indemnify and hold harmless Grantor, its successors and assigns, against and from any damage to Grantor's Property arising out of or directly connected with Grantee's use of the Railroad Road and its exercise of its rights or use of the Easement by Grantee's authorized agents, permittees and employees, and further will indemnify and hold harmless Grantor, its successors and assigns, from and against any and all claims, actions, suits or demands (including reasonable attorney fees and costs) brought or asserted on account of alleged injury or damage to property or persons, including account of alleged injury or damage to property or persons, including Grantee's agents and employees, arising from or connected with Grantee's use of said road or use of said road by Grantee's authorized agents and employees.
5. Grantee shall comply with all obligations, restrictions, and conditions that may be required by any local, state or national law, rule, statute, act or regulation, including the Forest Practices Act of the State of Oregon, and shall hold harmless Grantor, its successors and assigns, from and against any and all claims, actions, suites or demands (including reasonable attorney fees and costs) brought or asserted on account of alleged noncompliance by Grantee, its authorized agents, permittees and employees with the requirements of such law.
6. Grantee shall not improve the existing Railroad Road beyond its present state without the prior written permission of Grantor.
7. Grantor reserves the right to periodically block the Easement if it is deemed necessary to facilitate Grantor's commercial forest operations or Klamath Northern Railway Co. operations.
8. Grantor reserves for itself, its successors and assigns, and permittees, the right to use, cross, patrol and repair Railroad Road for any and all purposes, in any manner that will not unreasonably interfere with the rights granted to Grantee. Grantor may grant to third parties, upon such terms as it chooses, any or all of the rights

reserved by it; provided that use by such party shall be subject to the terms and conditions of this agreement and shall not unreasonably interfere with the rights granted to Grantee.

9. The consideration for the Easement grant from Grantor to Grantee is waiver and forestry easement set forth in paragraph 17 below and the cash price of \$500 to be paid by Grantee to Grantor upon execution of this Easement. In addition, Grantee will be responsible for filing this Easement with Klamath County and any expenses required with this filing.
10. Grantor may terminate this Easement Agreement by recording a written notice in the Klamath County, Oregon, records which describes a breach of the Easement Agreement by Grantee, Grantor's prior written notice of the breach, and Grantee's failure to cure the breach within fifteen (15) days after that notice is given. In addition, in the event that Grantee's property is made accessible by a public road or other reasonable access, then this Easement Agreement may be terminated by the Grantor.
11. Any disagreement arising out of or related to this Easement Agreement or from the breach of it, shall be submitted to arbitration. Provided, however, that if either party reasonably determines that the joinder of one or more third parties is necessary for a complete resolution of the dispute, then such party may litigate such dispute, provided that such third party or parties are joined in such litigation. The Arbitrator's award shall be final and binding and may be docketed as a final judgment in any court with jurisdiction.
12. Grantee acknowledges that the Easement granted by Grantor is subject to all valid liens, easements, servitudes, rights-of-way, oil, gas and mineral leases, and other grants of record in the County or apparent on the ground.
13. Grantor reserves the right to relocate Railroad Road at Grantor's expense, provided the relocated road provides reasonable equivalent access to Grantee's Property. Upon such relocation of said road, this Easement shall apply to the new location of the road, and this Easement shall no longer burden the original location of said road.

14. This Easement is limited to serving a maximum of one legal lot, and is appurtenant to Grantee's property.

15. All notices, directions and other instruments required or permitted to be given under this Easement Agreement, will be in writing, and will be sufficient in all respects if delivered or sent by fax, or if sent by prepaid registered post, to the parties at the following address or to any substitute address of which the party sending notice has had notice in writing,

If to Grantor, to;

Klamath Northern Railway Co.  
P O Box 638  
Gilchrist, OR 97737  
Fax No. (541) 689-6825

If to Grantee, to:

Tom and Beverly Carter  
85311 Jessie Lane  
Eugene, OR 97405  
Fax No. (541) 433-2997

16. Any notice, direction or other instrument will be deemed to have been received on the following dates:

- If sent by fax, on the date of transmission;
- If delivered, on the date of delivery; and
- If sent by registered mail, on the seventh business day following the date of mailing.

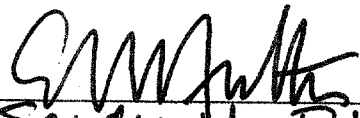
17. Waiver and Grant of Forestry Easement. Grantee acknowledges that the Grantee's Property is situated in a forest zone and may be subjected to conditions resulting from commercial forest operations upon the Grantor's Property and upon other adjacent lands. Such operations include management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, and other accepted and

customary forest management activities conducted in accordance with federal and state laws. These forest management activities ordinarily and necessarily produce noise, dust, smoke and other conditions that might conflict with Grantee's use of the Grantee's Property for residential purposes. Grantee waives all common-law rights to object to normal, necessary and non-negligent forest management activities legally conducted upon the Grantor's Property and upon other adjacent land of Grantor, its successors and assigns, now owned or assigned, which might conflict with Grantee's use of the Grantee's Property for residential purposes. Grantee grants and conveys an easement to Grantor, its successors and assigns, for the benefit of Grantor's Property and other adjacent lands of Grantor, its successors and assigns (now owned or hereafter acquired), for the resulting impact upon Grantee's Property caused by the above-described forest management and harvesting activities. The foregoing waiver, covenant and easement shall run with and bind Grantee's Property, and benefit Grantor, its successors and assigns and subsequent owners of Grantor's Property.

ACKNOWLEDGED AND AGREED to by the parties this 31<sup>st</sup> day of May, 2007.

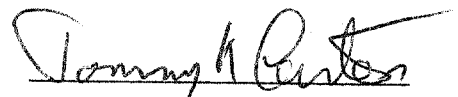
GRANTOR:

KLAMATH NORTHERN  
RAILWAY CO. (OREGON)

  
By: Sandy M. Fulton  
It's \_\_\_\_\_

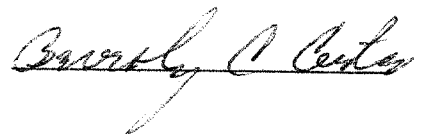
GRANTEE:

Tommy K Carter



GRANTEE:

Beverly C. Carter



CANADA )  
 ) ss.  
PROVINCE OF BRITISH COLUMBIA)

I certify that I know or have satisfactory evidence that Tommy K Carter is the person who appeared before me, and he acknowledged that he signed this instrument and is authorized to execute the document as the \_\_\_\_\_ of Klamath Northern Railway Co. and that it is the free and voluntary act of the entity for the uses and purposes declared in the document.

ACKNOWLEDGED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

NOTARY PUBLIC in and for British Columbia,  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_  
Print Name \_\_\_\_\_

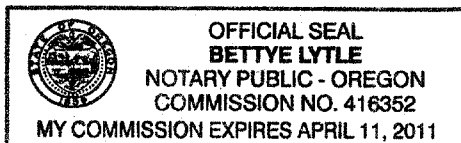
STATE OF OREGON                    )  
  ) ss.  
COUNTY OF LANE                )

On May 24, 2007, personally appeared the above named Tommy K Carter and acknowledged the foregoing instrument to be his/her voluntary act and deed.

Before me:

Betty Lytle  
Notary Public for (State) Oregon

My Commission expires: 4-11-11



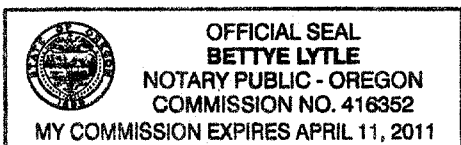
STATE OF OREGON                    )  
  ) ss.  
COUNTY OF LANE                    )

On May 24, 2007, personally appeared the above named  
Beverly C Carter and acknowledged the foregoing instrument to be  
~~his~~ her voluntary act and deed.

Before me:

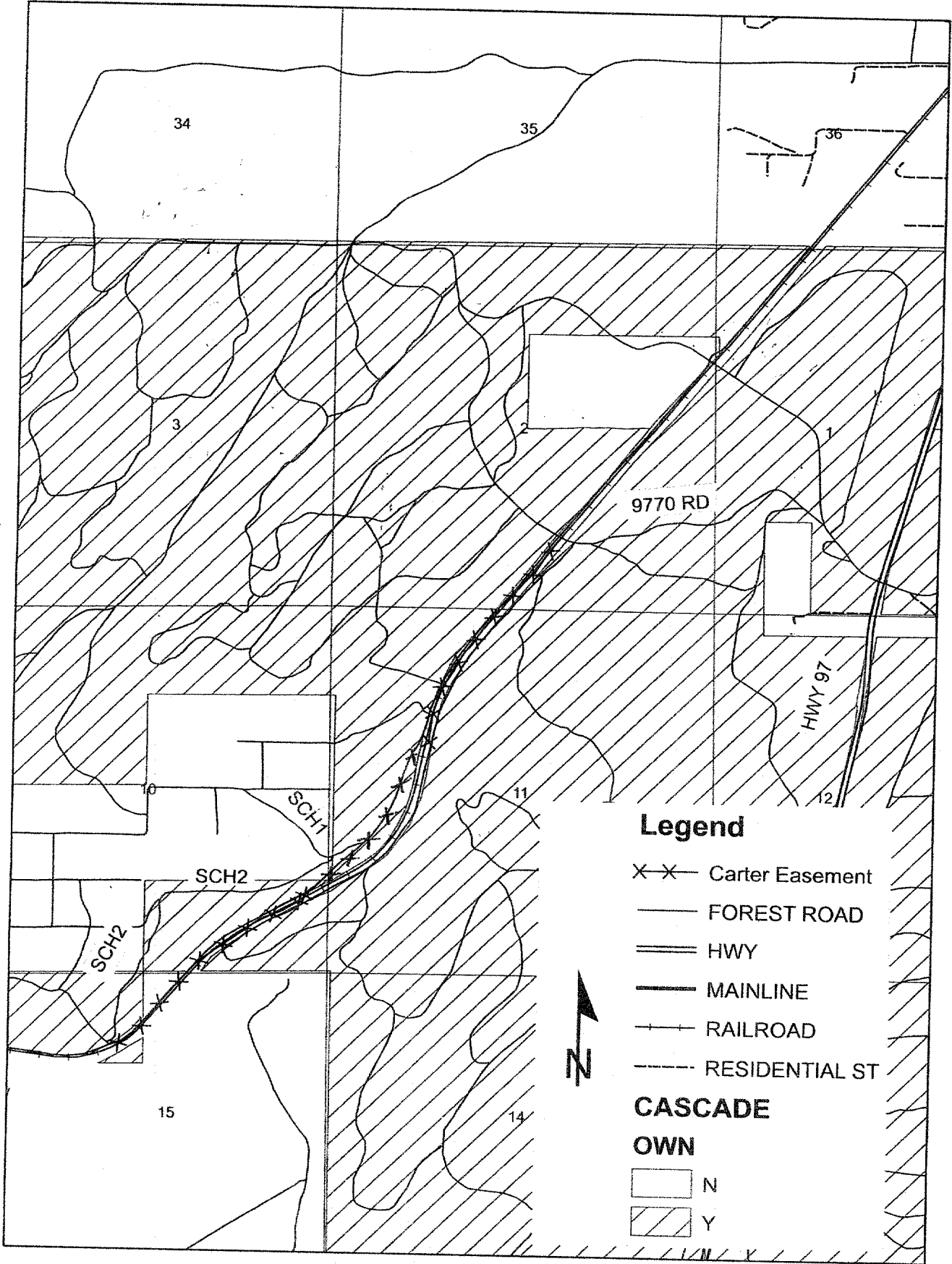
Betty Lytle  
Notary Public for (State) Oregon

My Commission expires: 4-11-11



# Carter Easement

EXHIBIT "A"



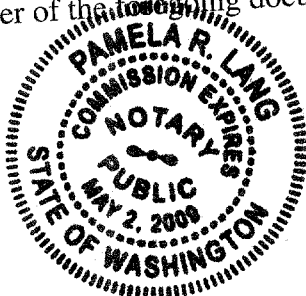
T25S, R08E



ACKNOWLEDGMENT

State of Washington  
County of Whatcom

On this 31st day of May, 2007, Sandy M. Filton personally appeared before me,  
☒ who is personally known to me,  
☐ whose identity I verified on the basis of \_\_\_\_\_,  
☐ whose identity I verified on the oath/affirmation of \_\_\_\_\_,  
a credible witness,  
to be the signer of the foregoing document, and he/~~she~~ acknowledged that he/~~she~~ signed it.



Pamela R. Lang Notary Public  
My Commission Expires: 5/2/2009

Attribution Clause: This Certificate is prepared for, and exclusively belongs to, the accompanying document entitled  
Separment Agreement & Waiver which consists of 9 page(s) and is dated 5/31/07.  
If this Certificate is appropriated to any document other than the one described herein, it shall be deemed null and void.