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03/11/2019 09:53:52 AM

Fee: \$137.00

**HIGHWAY EASEMENT**

THIS EASEMENT, made this 26<sup>th</sup> day of FEBRUARY, 2019, 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 (Federal Land Management Agency); 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)]; and,

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 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.

WHEREAS, this transfer is strictly limited to perfection of title to land already being utilized for highway right-of-way. No construction or other physical effects to the land not caused by normal operations and maintenance activities are sanctioned by this action.

NOW THEREFORE, the Department as authorized by law, does hereby grant to the Grantee a permanent, nonexclusive easement for right-of-way for the operation and maintenance of a highway, including control of access thereto from adjoining lands, and use of the space above and below the right-of-way 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 County, State of Oregon as shown on 1 - 7 sheets of right-of-way plats, dated March 2005, marked Exhibit A, attached hereto and made a part hereof, subject however, to the following terms and conditions:

AFTER RECORDING RETURN TO:  
OREGON DEPARTMENT OF TRANSPORTATION  
RIGHT OF WAY SECTION  
4040 FAIRVIEW INDUSTRIAL DR SE, MS#2  
SALEM OR 97302-1142

- (1) This easement is subject to outstanding valid claims, if any, existing on the date of the execution of this document by the Department, 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 the highway facility is to be undertaken by Grantee in compliance with the acts 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-470mm), the "Native American Graves Protection and Repatriation Act" as amended (104 Stat.3048, 75 U.S.C. 3001-3013), 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 right-of-way for the purpose of operation and maintenance of a highway, 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 Grantee shall establish no borrow, sand, or gravel pits; stone quarries, 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 plans, without first obtaining approval of the Forest Supervisor.
- (5) 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.
- (6) Consistent with highway safety standards, the Grantee shall:
  - (a) Protect and preserve soil and vegetative cover and scenic and esthetic 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 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, water bars, leadoff 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 reconstruction.

- (7) When need for the easement herein granted no longer exists, the Grantee shall give notice of that fact to the Department and the rights herein granted shall terminate and the land shall revert immediately to the full control of the Department of Agriculture.
- (8) Upon termination of this easement, the Grantee shall restore the easement area to a condition reasonably satisfactory to the Department of Agriculture, unless otherwise agreed by the Department of Agriculture in writing.
- (9) In the event of a reversion, the Grantee shall be responsible for the protection and maintenance of the easement of right-of-way until such time as the Grantee executes and records a quitclaim deed documenting the termination of the easement and the reversion of title in the United States of America.
- (10) 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.

In the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have the right to re-enter said right-of-way and any facilities thereon and the above-described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Agriculture and its successors and assigns, as such interest existed prior to this instrument.
- (11) Grantee's obligations under this document are subject to the limitations of Article XI, Section 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300).

IN WITNESS WHEREOF, I, Phillip A. Ditzler, Division Administrator, pursuant to delegations of authority from the Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

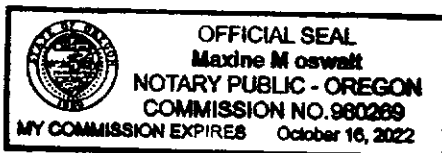
UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

By Phillip A. Ditzler  
Phillip A. Ditzler, Division Administrator

STATE OF OREGON     )  
                                  )  
COUNTY OF MARION    )

I, MAXINE OSWALT, a Notary Public in and for the State of Oregon, do hereby certify that on this 1<sup>st</sup> day of MARCH, 2019, before me personally appeared Phillip A. Ditzler, Division Administrator, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of FEBRUARY 26, 2019, 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 1<sup>st</sup> day of MARCH, 2019.



[Signature]  
Notary Public for Oregon  
My Commission expires OCT 16, 2022

Approved for legal sufficiency pursuant to ORS 291.047.

[Signature]  
Assistant Attorney General

Date 2/21/19

In compliance with the conditions set forth in the foregoing easement, the Grantee certifies, and by the acceptance of this easement, 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 easement.

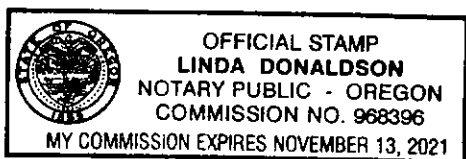
STATE OF OREGON, by and through its  
DEPARTMENT OF TRANSPORTATION

By

Scott C. Claus  
Scott C. Claus, State Right of Way Manager

STATE OF OREGON     )  
                                  )  
COUNTY OF MARION    )

February 26, 2019. Personally appeared Scott C. Claus, who being sworn, stated that he 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 him. Before me:



Notary Public for Oregon  
My Commission expires

11/13/21

EXHIBIT A  
RIGHT OF WAY GRANT

OREGON DEPARTMENT OF TRANSPORTATION  
Located Line

# CHEMULT NORTH SECTION

THE DALLES - CALIFORNIA HIGHWAY (U.S. 97)

PROJECT NO. 6008

FILE NO. 099

KLAMATH COUNTY, OREGON

MARCH 2005

U.S.D.A.  
FOREST SERVICE  
PACIFIC NORTHWEST REGION 6  
WINEMA NATIONAL FOREST

LOT 3 SECTION 4, T.27 S., R. 8 E., W.M. 13.57 Ac. ±	LOT 4 SECTION 4, T.27 S., R. 8 E., W.M. 4.52 Ac. ±
SE 1/4 NW 1/4 SECTION 4, T.27 S., R. 8 E., W.M. 1.40 Ac. ±	SW 1/4 NW 1/4 SECTION 4, T.27 S., R. 8 E., W.M. 18.28 Ac. ±
NW 1/4 SW 1/4 SECTION 4, T.27 S., R. 8 E., W.M. 18.65 Ac. ±	SW 1/4 SW 1/4 SECTION 4, T.27 S., R. 8 E., W.M. 16.16 Ac. ±
SE 1/4 SE 1/4 SECTION 5, T.27 S., R. 8 E., W.M. 2.48 Ac. ±	NE 1/4 NE 1/4 SECTION 8, T.27 S., R. 8 E., W.M. 10.87 Ac. ±
NW 1/4 NW 1/4 SECTION 9, T.27 S., R. 8 E., W.M. 7.79 Ac. ±	SW 1/4 NW 1/4 SECTION 9, T.27 S., R. 8 E., W.M. 0.78 Ac. ±
SE 1/4 NE 1/4 SECTION 8, T.27 S., R. 8 E., W.M. 17.88 Ac. ±	NE 1/4 SE 1/4 SECTION 8, T.27 S., R. 8 E., W.M. 18.66 Ac. ±
SE 1/4 SE 1/4 SECTION 8, T.27 S., R. 8 E., W.M. 18.66 Ac. ±	NE 1/4 NE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 14.77 Ac. ±
NW 1/4 NE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 3.60 Ac. ±	SE 1/4 NE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 5.77 Ac. ±
SW 1/4 NE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 6.97 Ac. ±	NE 1/4 SE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 6.08 Ac. ±
NW 1/4 SE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 12.82 Ac. ±	SW 1/4 SE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 2.20 Ac. ±
SE 1/4 SE 1/4 SECTION 17, T.27 S., R. 8 E., W.M. 17.59 Ac. ±	NE 1/4 NE 1/4 SECTION 20, T.27 S., R. 8 E., W.M. 16.08 Ac. ±
SE 1/4 NE 1/4 SECTION 20, T.27 S., R. 8 E., W.M. 3.84 Ac. ±	

TOTAL RIGHT OF WAY:  
239.42 Acre ±

## LEGEND

- N.F.S.L. NATIONAL FOREST SYSTEM LANDS
- Township or Range Line
  - Section Line
  - Quarter Section Line
  - Sixteenth Section Line
  - Existing Right of Way or Property Line
  - New Right of Way Line
  - Extg. Access Control Line

NOTE : ALL RECTANGULAR SURVEY  
LINES ARE PROJECTED.

Accepted By

*Richard H. Riter*  
FOREST ENGINEER

Date :

9/12/05

Reviewed By :

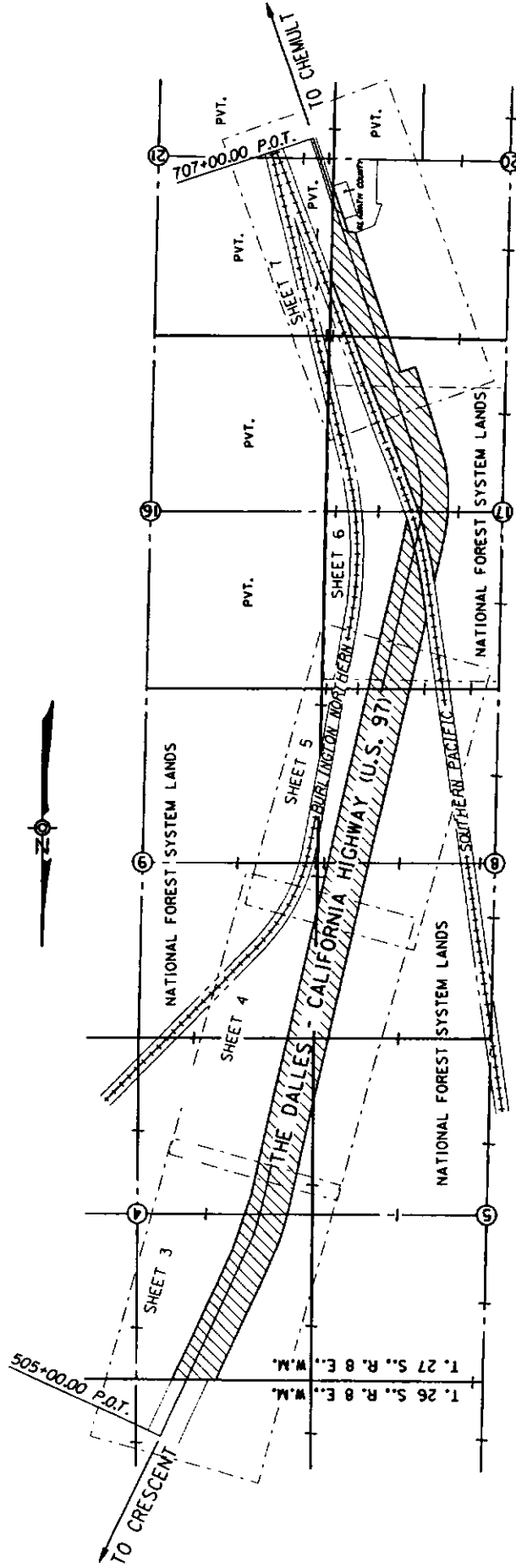
*Cliff Miller*  
LAND SURVEYOR

Date :

9/16/05

# VICINITY MAP

SECTIONS 4, 5, 8, 9, 17, AND 20, T. 28 S., R. 8 E., W.M.,  
IN KLAMATH COUNTY, OREGON.



SEE SHEET 7 FOR BASIS OF BEARING

RECTANGULAR SURVEY LINES ARE PROTRACTED

SECTION NO. AT CENTER OF SECTION

PVT. = PRIVATE PROPERTY

OREGON DEPARTMENT OF TRANSPORTATION

CHEMULT NORTH SECTION

THE DALLES - CALIFORNIA HIGHWAY (U.S. 97)  
KLAMATH COUNTY, OREGON

SEE O.D.O.T. DRG. NO. 68-14-3, 7B-26-18, AND 7B-26-19

NATIONAL FOREST SYSTEM LAND

RIGHT OF WAY PLAT  
MARCH 2005

FILE NO. 6008099

RIGHT OF WAY GRANT

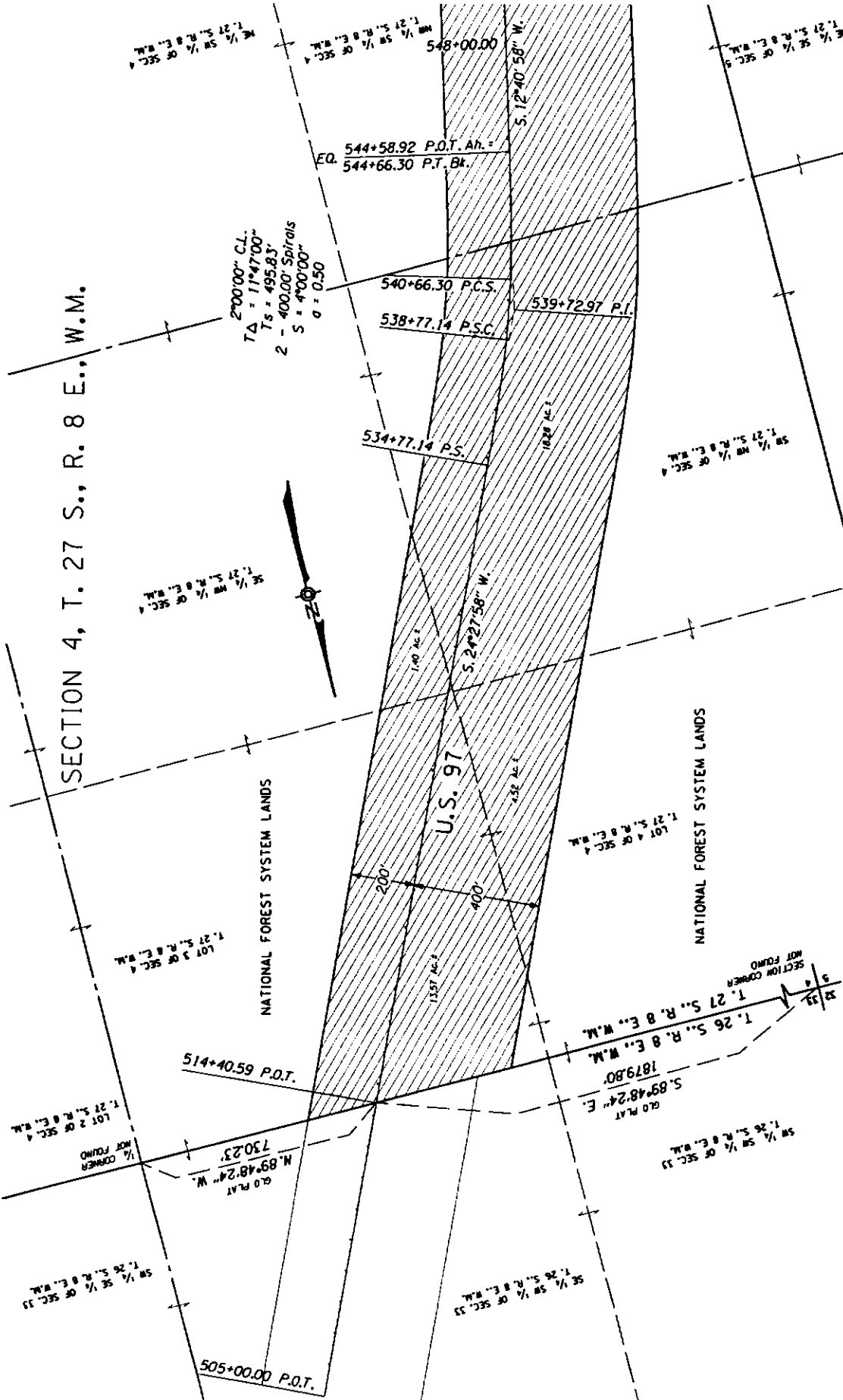
TO BE ACQUIRED  
239.42 AC.

EXHIBIT A SHEET 2 OF 7

NO SCALE

SECTION 4, T. 27 S., R. 8 E., W.M.

SEE SHEET 4



RIGHT OF WAY GRANT

NATIONAL FOREST SYSTEM LAND

OREGON DEPARTMENT OF TRANSPORTATION

RIGHT OF WAY PLAT

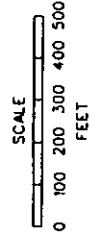
MARCH 2005

CHEMULT NORTH SECTION

THE DALLES - CALIFORNIA HIGHWAY (U.S. 97)

KLAMATH COUNTY, OREGON

SEE O.D.O.T. DRG. NO. 78-26-18, AND 78-26-19



TO BE ACQUIRED  
37.77 AC.

EXHIBIT A SHEET 3 OF 7

FILE NO. 6008099



SEE SHEET 3

SECTIONS 4, 5, 8, AND 9,  
T. 27 S., R. 8 E., W.M.

# NATIONAL FOREST SYSTEM LANDS

# NATIONAL FOREST SYSTEM LANDS

U.S. 97

568+84.23 P.O.T.

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 17-7-031

SEC. 5 OF SEC. 8  
A.B. 1275

9 OF SEC. 8  
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27 S. R. B. E. M. M.

1.21 S. R. E. M. M. 1/2 SE 1/4 OF SEC. 5

BURLINGTON NORTHERN



OREGON DEPARTMENT OF TRANSPORTATION

CHEMUL T NORTH SECTION

THE DALLES - CALIFORNIA HIGHWAY (U.S. 97)  
KLAMATH COUNTY, OREGON

SEE O.D.O.T. DRG. NO. 7B-26-19

NATIONAL FOREST SYSTEM LAND

RIGHT OF WAY PLAT

MARCH 2005

FILE NO. 6008099

RIGHT OF WAY GRANT

TO BE ACQUIRED  
567740

EXHIBIT A SHEET 4 OF 7

A vertical scale bar is shown on the left side of the map. It is labeled 'SCALE' at the top and 'FEET' at the bottom. The scale has markings at 0, 100, 200, 300, 400, and 500 feet.

SEE SHEET 4

THE DALLES - CALIFORNIA HIGHWAY (U.S. 97)  
KLAMATH COUNTY, OREGON

NATIONAL FOREST SYSTEM LAND

RIGHT OF WAY PLAT

**MARCH 2005**

FILE NO. 6008099

RIGHT OF WAY GRANT



TO BE ACQUIRED  
55.20 AC. ±

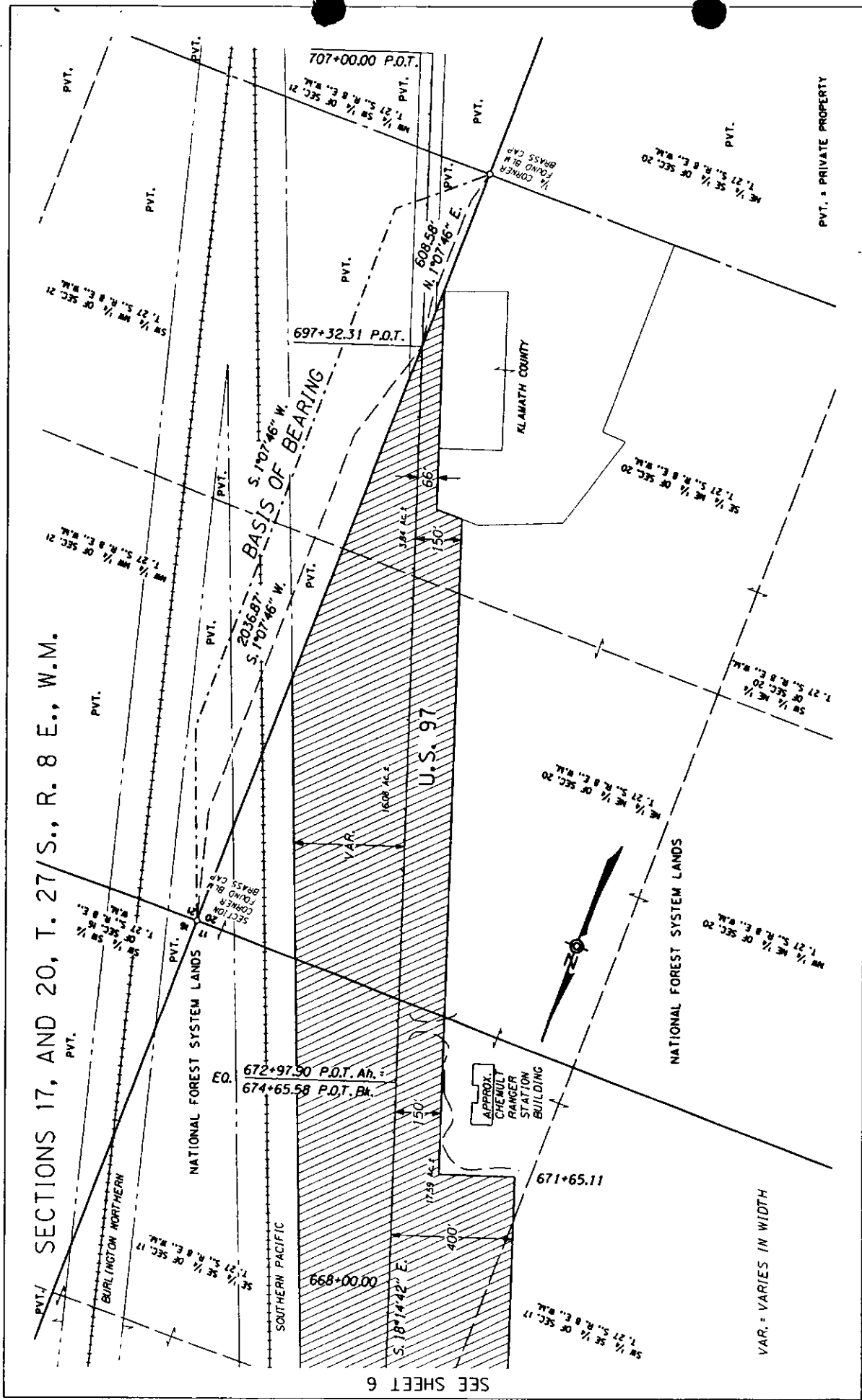
EXHIBIT A SHEET 5 OF 7

SCALE

0 100 200 300 400 500

\$557

EXHIBIT A SHEET 6 OF 7



OREGON DEPARTMENT OF TRANSPORTATION	NATIONAL FOREST SYSTEM LAND	RIGHT OF WAY GRANT	SCALE
CHEMULT NORTH SECTION	RIGHT OF WAY PLAT	TO BE ACQUIRED 37.57 AC.±	0 100 200 300 400 500 FEET
THE DALLES - CALIFORNIA HIGHWAY (U.S. 97)	MARCH 2005	EXHIBIT A SHEET 7 OF 7	
SEE O.D.O.T. DRG. NO. 6B-14-3, AND 7B-26-19			