



2021-013686
Klamath County, Oregon
09/09/2021 11:41:02 AM
Fee: \$127.00

AFTER RECORDING RETURN TO:

Henrik Tordrup
Swan Lake North Hydro, LLC
412 W 15th Street, 15th Floor
New York, NY 10011

MEMORANDUM OF EASEMENT AND SUBORDINATION

Grantor: Edgewood Ranch, Inc., an Oregon corporation

Grantee: Swan Lake North Hydro, LLC, a Delaware limited liability company

This MEMORANDUM OF EASEMENT AND SUBORDINATION ("Memorandum") is made this 2nd day of September, 2021 by Edgewood Ranch, Inc., an Oregon corporation ("Grantor") and Swan Lake North Hydro, LLC, a Delaware limited liability company ("Grantee"). Grantor and Grantee are parties to that certain unrecorded EASEMENT AGREEMENT (IN GROSS) dated February 14, 2018 (the "2018 Easement Agreement"). Grantor and Grantee entered into that certain FIRST AMENDMENT TO AGREEMENT RELATING TO THE DEVELOPMENT AND OPERATION OF SWAN LAKE NORTH PUMPED STORAGE HYDROELECTRIC PROJECT dated effective ~~July~~ Sept 2nd, 2021 (the "First Amendment"), which, in part, corrected the legal descriptions and mapped depictions of Grantor's real property and those portions of such property encumbered by the 2018 Easement Agreement (the "Amended Easement Agreement").

This Memorandum is recorded to give notice of (a) the Amended Easement Agreement and the temporary and permanent easement rights granted thereunder to Grantee, and (b) the locations of Grantor's real property (the "Property") and the location of those portions of the Property encumbered by the grant of such easements, which areas are respectively described in *Exhibits A and A-1, B and B-1, and C and C-1* attached hereto. Except as may be specifically required by the paragraph set forth below, this Memorandum in no way modifies or amends the Amended Easement Agreement or the First Amendment.

The Amended Easement Agreement, as may be hereafter amended, modified or replaced, and all rights granted therein including, but not limited to, the "Right of First Offer" in Section 19.9 of the Amended Easement Agreement (the "Right of First Offer"), are, and shall remain, subject and subordinate to: (a) that Deed of Trust executed by Grantor in favor of Harvest Capital Company, dated November 11, 2013, and recorded on December 3, 2013 as Document Number

2013-013321 in the real property records of Klamath County, Oregon (the "Deed of Trust"), to secure Loan No. 21302019 (the "Loan"), as assigned to U.S. Bank National Association, as Custodian/Trustee for Federal Agricultural Mortgage Corporation Programs ("Lender") by that Assignment of Note and Deed of Trust dated November 11, 2013, and recorded December 3, 2013 as Document Number 2013-013322 in the real property records of Klamath County, Oregon, (b) any other documents between Grantor and Lender in connection with the Loan (the "Other Loan Documents"), (c) all advances made or to be made under the Loan, the Deed of Trust or the Other Loan Documents, to the full extent of the principal sum and interest thereon from time to time secured thereby, (d) any renewal substitution, extension, modification or replacement thereof, and (e) that Consent to Easement Agreement and Subordination executed by Grantor, Grantee, and Lender to memorialize, among other things, Lender's willingness to consent to the Amended Easement Agreement. Such subordination shall additionally remain in effect notwithstanding the granting of consent to this Memorandum by Harvest Capital Company as attorney-in-fact for Lender. Grantee agrees that the Right of First Offer shall not apply to, and waives the Right of First Offer with respect to (i) a transfer of the Property by a foreclosure of the Deed of Trust, a sheriff's sale pursuant thereto, or a deed in lieu of foreclosure of the Deed of Trust (any such transfer, a "Deed of Trust Transfer") and (ii) all transfers of the Property following a Deed of Trust Transfer. Grantee is not in privity with or a third-party beneficiary to the Deed of Trust or any of the Other Loan Documents. In the event Lender declares a default under the Deed of Trust and initiates an enforcement of the Deed of Trust, Grantee will not have any right to exercise the Right of First Offer, or demand a conveyance of the Property and Lender may proceed in its enforcement of the Deed of Trust unimpaired by the Right of First Offer. Grantee shall not take any action that interferes with or delays the Lender's enforcement of the Deed of Trust or impedes the exercise by Lender of its rights and remedies under the Deed of Trust or Other Loan Documents. Grantor and Grantee understand and acknowledge that Lender is relying on the covenants and other provisions contained in this paragraph, and that Lender would not consent to the Amended Easement Agreement or this Memorandum without such covenants and other provisions. The provisions hereof are self-operative and effective without the execution of any further instruments on the part of Grantee. However, Grantee shall execute and deliver to Lender such other instruments as Lender reasonably requests in order to effectuate said provisions. The provisions in this paragraph are binding upon and inure to the benefit of the Grantee and Lender, their respective participants, successors, and assigns, and may not be modified other than by an agreement in writing signed by Grantee and Lender or their respective successors and assigns.

[Signatures Pages Follow]

IN WITNESS WHEREOF, Grantor has executed this Memorandum on the date set forth below.

EDGEWOOD RANCH, INC., an Oregon corporation

By: _____

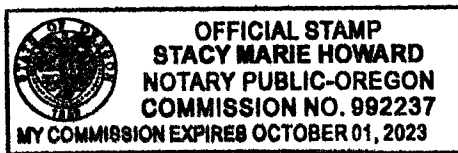
Larry Jespersen, President

By: _____

Lauren Jespersen, Chief Financial Officer

STATE OF OREGON)
)ss.
County of Klamath)

This instrument was acknowledged before me this 2 day of Sept, 2021, by both Larry Jespersen, in his capacity as President, and Lauren Jespersen, in his capacity as Chief Financial Officer



NOTARY PUBLIC FOR OREGON
My Commission Expires: 10-01-2023

[Signatures Continue On Following Page]

**EXHIBIT A TO
MEMORANDUM OF EASEMENT AND
SUBORDINATION**

LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1:

Parcel 1 of Land Partition 05-13, a replat of Parcel 1 of LP 16-121 situated in Sections 7, 8, 9, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 34 and 35 of Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon being recorded on June 3, 2013 in 2013-006214, Records of Klamath County, Oregon.

Parcel 2:

The NE1/4 of Section 32, Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

Parcel 3:

The NE1/4 of Section 28 and the NE1/4 of Section 29, Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

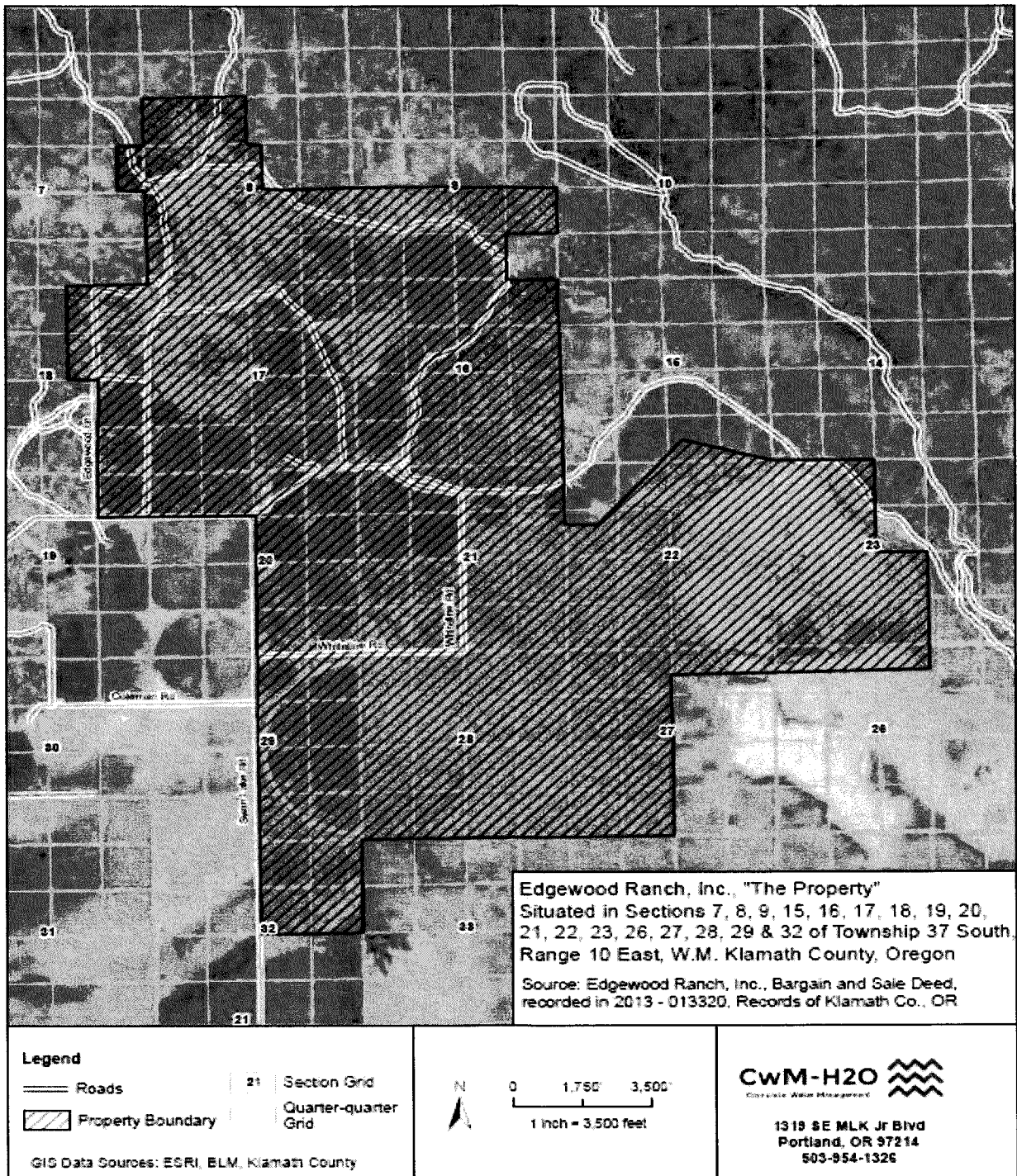
Parcel 4:

The SW1/4 of Section 27 and the SE1/4 of Section 28, Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

Together with an easement for ingress and egress over the Westerly 30 feet of the NE1/4 of Section 28, Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, as granted by instrument recorded April 27, 1994 in Volume M94, Page 12606, Microfilm Records of Klamath County, Oregon.

**EXHIBIT A-1 TO
MEMORANDUM OF EASEMENT
AND SUBORDINATION**

MAP DEPICTING THE PROPERTY



**EXHIBIT B TO
MEMORANDUM OF EASEMENT AND SUBORDINATION
LEGAL DESCRIPTION OF THE TEMPORARY EASEMENT**

The E1/2 SW 1/4 SW1/4

The SE1/4 SW1/4

The S1/2 NE1/4 SW1/4

The SE1/4 NW1/4 SW1/4

The SW1/4 SE1/4

The SW1/4 NW1/4 SE1/4

All in Section 9, Township 37 South, Range 10 East of the Willamette Meridian,
Klamath County, Oregon

The NE1/4 NW1/4

The E1/2 NW1/4 NW1/4

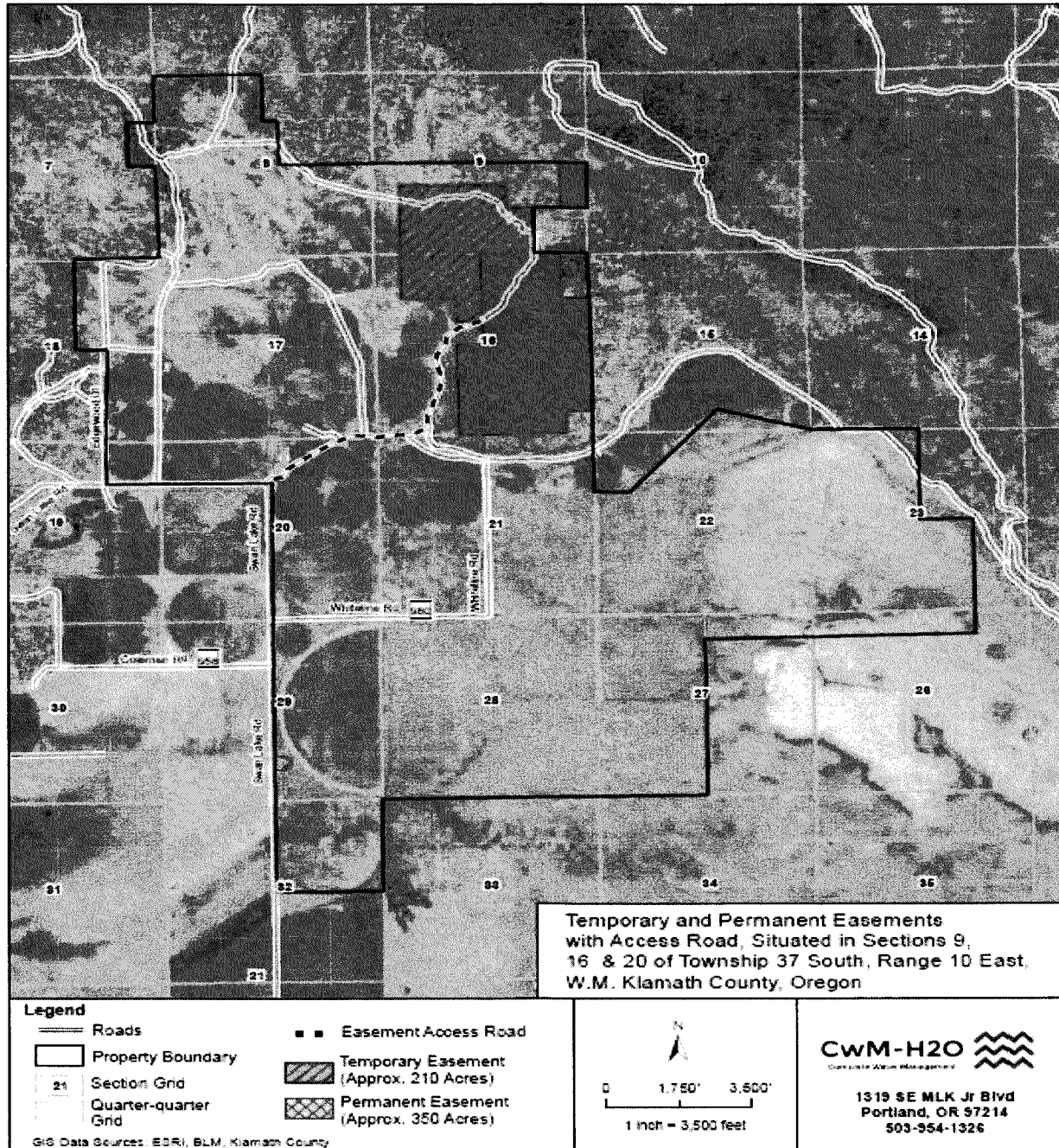
The NE1/4 SE1/4 NW1/4

all in Section 16, Township 37 South, Range 10 East of the Willamette Meridian, Klamath
County, Oregon

[A more precise legal description to be provided upon survey of the Temporary Easement Area]

**EXHIBIT B-1 TO
MEMORANDUM OF EASEMENT AND
SUBORDINATION**

DEPICTION OF TEMPORARY EASEMENT AREA



**EXHIBIT C TO
MEMORANDUM OF EASEMENT AND SUBORDINATION
LEGAL DESCRIPTION OF THE PERMANENT EASEMENT
AND
GENERAL DESCRIPTION OF THE EASEMENT ACCESS ROAD**

LEGAL DESCRIPTION OF THE PERMANENT EASEMENT

The E1/2 NE1/4 SE1/4 of Section 9, Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

The W1/2 NE1/4; the SE1/4 NE1/4; the W1/2 NE1/4 NE1/4; the E1/2 E1/2 SW1/4; the W1/2 SE1/4; the NE1/4 SE1/4; the N1/2 SE1/4 SE1/4 and the SW1/4 SE1/4 SE1/4 all in Section 16, Township 37 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

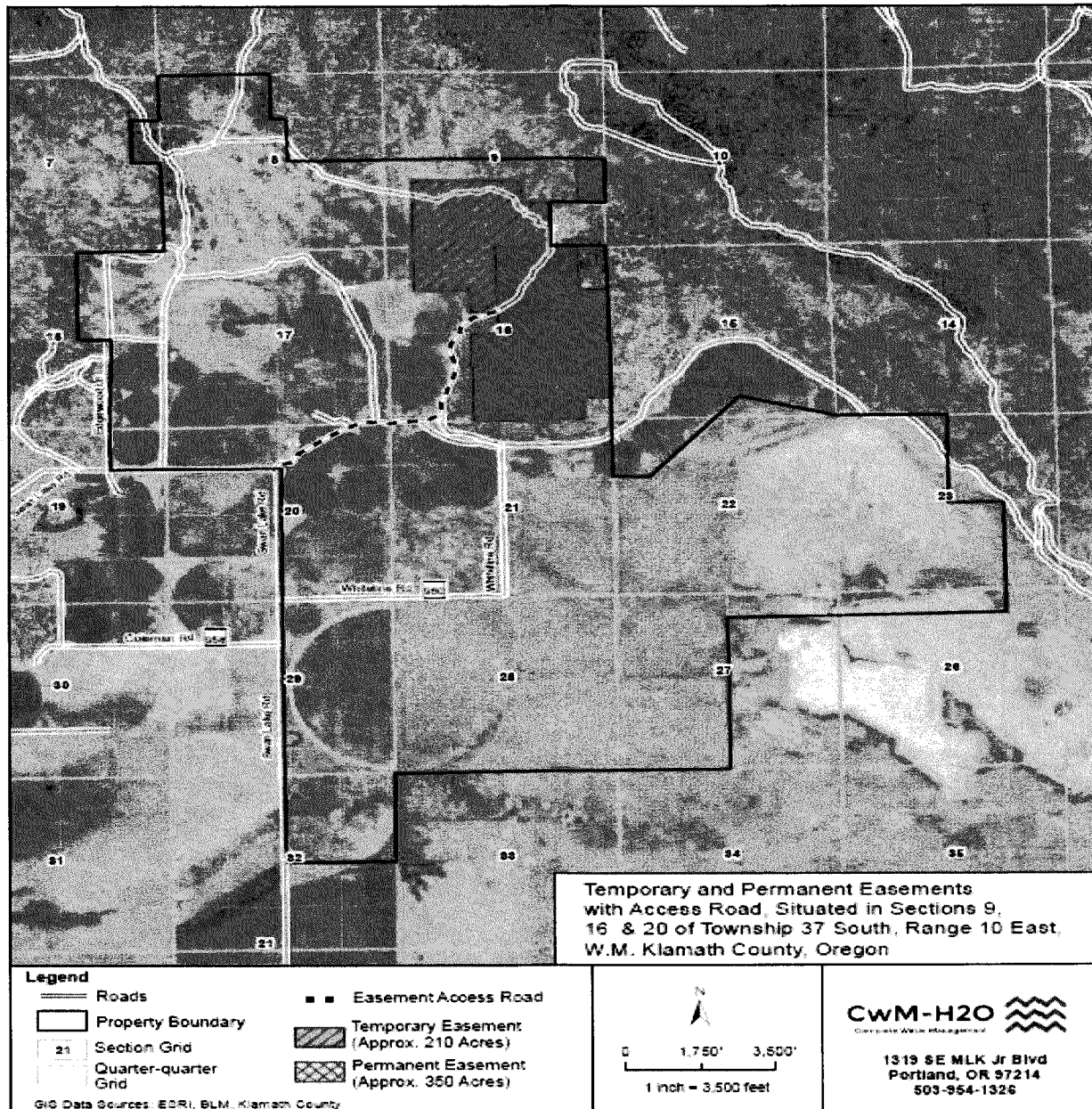
[A more precise legal description to be provided upon survey of the Permanent Easement Area]

GENERAL DESCRIPTION OF THE EASEMENT ACCESS ROAD

The Easement Access Road is an existing, but unimproved road generally located as follows: beginning at the SW corner of NW1/4 NE1/4 of Section 20; then heading approximately 2500 feet in a northeasterly direction to the NE corner of NE1/4 of Section 20; then heading for approximately 1600 feet east along the south section line of the SW1/4 SW1/4 of Section 16; then heading in a northeasterly direction for approximately 4,000 feet, ending at the SE corner of NE1/4 SE1/4 NW1/4 of Section 16, ALL in Township 37 South, Range 10 East W.M., Klamath County, Oregon.

**EXHIBIT C-1 TO
MEMORANDUM OF EASEMENT AND SUBORDINATION

DEPICTION OF PERMANENT EASEMENT AREA AND
EASEMENT ACCESS ROAD**



039306\00001\11874028v1