

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
EUGENE DISTRICT OFFICE

1792A
2812
Weyerhaeuser
E-476
Amend. 3

ENVIRONMENTAL ASSESSMENT NO. OR090-00-11
Amendment to Road Use and Right-of-Way Agreement E-476
and O&C Logging Road Right-of-Way Permit E-476

I. INTRODUCTION

A. BACKGROUND

The Proposed Action involves the amendment of an existing reciprocal right-of-way agreement. The Bureau of Land Management (BLM) has entered into a number of such agreements in the past under regulations in 43 CFR 2812, which were first issued in 1950. A reciprocal agreement is composed of two separate documents: (1) a Right-of-Way and Road Use Agreement, which is a form of non-exclusive easement granting rights to the United States to use roads controlled by the private landowners (Permittee) and to construct new roads over land owned by the Permittee for the purpose of reaching public (BLM) land, and (2) an O&C Logging Road Right-of-Way Permit that grants rights to the Permittee to use roads controlled by the United States and to construct new roads over public land administered by BLM for the purpose of accessing Permittee lands. The road and lands over which rights have been granted are specifically listed in schedules which are attached to the Agreement and Permit documents. In addition, most reciprocal agreements include an Exhibit C map showing the lands and roads of each party to the agreement. In most BLM, Eugene District reciprocal agreements, rights have been granted in perpetuity.

Reciprocal agreements were originally developed to resolve problems created by the checkerboard ownership pattern of BLM lands in Western Oregon. Prior to 1950 many private landowners would not grant access rights to the United States across their lands and most BLM lands had no legal access. The reciprocal agreements have provided the mechanism for both parties to simultaneously secure the long-term access rights they need to reach and manage their intermingled lands. A second major goal of the regulations creating reciprocal agreements was to avoid duplicate road systems by providing the mechanism for two parties to share roads in common. Much of the existing forest road system in the Eugene District has been constructed under the provisions of reciprocal agreements.

B. NEED FOR THE PROPOSED ACTION

Weyerhaeuser Company (WeyCo) has requested Amendment No. 3 to O&C Logging Road Right-of-Way Permit E-476 in order to acquire legal access to a parcel of its land over an existing BLM road and a short segment of new road to be constructed across public land. The BLM proposes to acquire access over existing WeyCo roads and the right to construct segments of new road across WeyCo lands in several locations in order to reach tracts of public land for potential future timber sales. The Proposed Action would accomplish all of these purposes.

II. PROPOSED ACTION AND ALTERNATIVES

A. PROPOSED ACTION

The Proposed Action is to amend O&C Logging Road Right-of-Way Permit E-476 and Road Use and Right-of-Way Agreement E-476 as described in the attached draft amendment document.

The amendment would accomplish the following actions:

1. Add the BLM controlled segments of existing BLM Road No. 21-1-33 in Section 33, T. 21 S., R. 1 W., W.M. to Schedule 1, U. S. Lands. The addition would allow the Permittee in the future to use this road in accordance with the provisions of Agreement and Permit E-476 to access approximately 5 acres of its lands in the NW1/4NW1/4 of Section 34, T. 21 S., R. 1 W., W.M. Use of the road would be restricted between March 1 and June 30 as provided in the Biological Opinion of the U.S. Fish and Wildlife Service. This term and condition may be waived in a particular year if nesting or reproductive success surveys conducted reveal that spotted owls are non-nesting or that no young are present that year. Waivers are valid only until March 1 of the following year.
2. Add a fifty foot wide strip of BLM land in the NE1/4NE1/4 of Section 33, T. 21 S., R. 1 W., W.M. to Schedule 1, U. S. Lands. The addition would allow the Permittee in the future to construct a new road in accordance with the provisions of Agreement and Permit E-476 to access approximately 5 acres of its lands in the NW1/4NW1/4 of Section 34, T. 21 S., R. 1 W., W.M.

The construction would consist of a temporary natural surface spur road, approximately 463 feet in length, 14 feet in width, with a 2-foot wide ditchline and a 6% gradient. The proposed road is located on gentle side slopes ranging from 5% to 15%. The road would be constructed to BLM standards.

3. Add a BLM controlled segment of existing Road No. 21-2-2 in the E1/2NE1/4 of Section 35, T. 20 S., R. 2 W., W.M. to Schedule 1, U. S. Lands. The addition would allow the Permittee in the future to use this road in accordance with the provisions of Agreement and Permit E-476 to access its lands in the NW1/4NW1/4 of Section 36, T. 20 S., R. 2 W., W.M.
4. Add 1,318.06 acres of WeyCo land located outside of the E-476 agreement area boundary to Schedule 2, Permittee Lands. The addition would allow the Bureau to use existing roads and/or construct new roads across these Permittee lands to access public lands. Any future BLM road use or new construction would be assessed by separate NEPA analyses prior to making a decision to approve such future road use or construction.
5. Add language that specifically allows each party to construct, improve, use and maintain heliports, heliponds and temporary logging landings upon the other party's land. Approval of the location, design, access and flightways must be obtained in writing from the landowner and agreement must be reached as to the disposal of any timber on the site. This action would not add any rights not already granted under Agreement E-476 and Permit E-476 under the general terms of the right to construct and use roads for forest management purposes.

B. NO ACTION ALTERNATIVE

The No Action Alternative would be to deny the proposed amendment. Both WeyCo and

BLM would then need to pursue the acquisition of alternate access to their respective lands where legal access does not currently exist.

C. ALTERNATIVES CONSIDERED BUT NOT ANALYZED

At WeyCo's request, Actions 1 and 2 above could be removed from Amendment 3 to E-476 and authorized through a separate short term permit. This option was not analyzed because administratively it would be more efficient to manage this parcel under an amendment to the existing agreement.

III. AFFECTED ENVIRONMENT

The BLM-managed lands affected by the Proposed Action are in the Row River Watershed. The existing BLM-controlled roads (*Items 1 and 3*) and the 50-foot wide strip of land (*Item 2*) are in the Connectivity land use allocation.

The 1,318.06 acres of WeyCo land (*Item 4*) are in the Row River Watershed, as are the lands described in Schedules 1 and 2 (*Item 5*).

The 50-foot wide strip of land (*Item 2*) is in a 3-year-old plantation. The WeyCo stand to be accessed by construction on this strip is 5 acres of forest estimated to be 65 years old and is within the home range (1.2 miles) of two historic owl sites: Wildwood Falls (Section 33) and Disston (Section 35). These sites are based on activity centers of two male owls and the occasional female in 1991-1993; the owls did not show any nesting behavior and the males were sometimes located at the adjacent site. There was a pair at Disston in 1997 but only the male was located in 1998.

Typically in western Oregon, suitable Northern Spotted Owl habitat is defined as nesting-roosting-foraging habitat in stands of age 80 years or more. However, in this case, the two owl sites consist of second-growth forest with a few possible nest trees. Although the stands do not meet the definition of suitable habitat, there are owls residing in them. Both sites have less than 30% suitable habitat within their home ranges. The surrounding private land has been heavily harvested by clearcuts or is fairly young second growth.

Because the 50-foot-wide strip (*Item 2*) has been harvested within approximately the last 3 years, there is no red tree vole habitat or terrestrial mollusk habitat available. Therefore, no survey and manage terrestrial mollusk or red tree vole surveys are necessary.

The 50-foot-wide strip (*Item 2*) is an area of low-risk habitat for sensitive botanical resources. District policy on ground-disturbing actions grants that a botanical survey for sensitive plants and survey and manage species is not necessary in a stand as young as this.

There are no listed fish species under the Endangered Species Act located in the Row River Watershed. There are no fish-bearing streams within 2,000 feet of either of the existing roads or the 50-foot wide strip of land. The 50-foot wide strip of land (*Item 2*) is within the Riparian Reserve of the headwaters of a stream located 150 feet to the southwest. There are no stream crossings on BLM managed land.

A cultural resource survey was completed in the NE 1/4NE 1/4 of Section 33 in conjunction with a 1995 timber sale (Row River). No cultural resources were found.

The following resources are either not present or would not be affected by any of the alternatives: Areas of Critical Environmental Concern; prime or unique farm lands; invasive, non-native species; Native American religious concerns; solid or hazardous wastes; Wild and Scenic Rivers; Wilderness; minority populations; and low income populations.

IV. DIRECT AND INDIRECT EFFECTS

A. PROPOSED ACTION

The use of the existing roads (*Items 1 and 3*) and the construction of a new road on the 3-year-old plantation (*Item 2*) are not likely to affect threatened and endangered or other wildlife species. The use of Road No. 21-1-33 (*Item 1*) may affect but is not likely to adversely affect northern spotted owls. If owls should nest at the Wildwood Falls owl site, heavy truck traffic on the road might disturb them. Approximately 3/4 mile of road is within 1/4 mile of the second growth stand that makes up the site's core. The seasonal restriction would mitigate this disturbance.

The Proposed Action would not affect habitat for Survey and Manage terrestrial mollusks or red tree voles.

The Proposed Action would not affect sensitive botanical resources.

It is unlikely that the Proposed Action would retard attainment of the Aquatic Conservation Strategy objectives because the existing roads are gravelled and more than 2,000 feet from fish habitat, and because the location of the 50-foot-wide strip is approximately 150 feet from the nearest stream. The Proposed Action would not affect spatial or temporal connectivity; the aquatic system; instream flows; floodplain inundation; species composition or structural diversity of aquatic plant communities; nor habitat for riparian-dependent species.

There is a potential for an increase in erosion for as long as roads are in use, and sedimentation where eroded material is routed to stream crossings. The amount of erosion from road right-of-ways is dependent on many factors, including surfacing, vegetative cover, and traffic levels. The Proposed Action is likely to result in an increase in traffic use during logging operations, which is expected to cause only minor increases in erosion/sediments. Regular road maintenance of the gravel surfaced roads is an effective mitigation measure to reduce erosion potential. The existing vegetative cover on cut and fill slopes is not expected to change as a result of increased use of existing roads.

Road construction on the 50-foot-wide strip (*Item 2*) would add approximately 0.25 acre of compaction on BLM-managed lands. The road would be subsoiled and barricaded subsequent to WeyCo's use.

The addition of 1,318.06 acres of WeyCo land to Schedule 2 (*Item 4*) would allow the BLM to use existing roads and/or construct new roads on these lands. There would be no effect at this time. Any future BLM road use or new construction would be assessed by separate NEPA analysis.

Item 5 is administrative in nature. No aquatic, botanical, or wildlife resources would be affected.

The harvest of WeyCo's 5-acre stand (*Item 1*) may affect and is likely to adversely affect northern spotted owls and other wildlife species that may use it. The removal of 5 acres of dispersal and foraging habitat from two owl sites further lowers the amount of habitat within their home ranges. The sites are already below the 30% habitat level and any further loss is an adverse effect to the owl sites. There would be no effects to northern spotted owl critical habitat, marbled murrelets, bald eagles, or peregrine falcons.

B. NO ACTION ALTERNATIVE

BLM and WeyCo would either need to pursue the acquisition of alternate access to their respective lands where legal access does not currently exist, or not access their respective lands.

Proposed Action Items 1, 2, 3 and 5 would not occur. Under Item 4, BLM would request access on a case by case basis and analyze it under separate NEPA process.

With respect to Items 1 and 2, WeyCo has legal, but longer alternate access. Therefore, WeyCo's 5-acre stand could be harvested and the impacts on Northern Spotted Owl habitat would be similar to the Proposed Action.

C. MITIGATION MEASURES

The BLM shall provide WeyCo the conservation recommendations contained in the biological opinion for this action involving the removal of spotted owl habitat or private land via federally-controlled roads.

V. CUMULATIVE EFFECTS

This analysis incorporates by reference the analysis of cumulative effects in the NSO FSEIS (Chapters 3 and 4, pp. 4-10) and the RMP EIS (Chapter 4). Those documents analyze most cumulative effects of road building and other related management activities. None of the alternatives analyzed here would have cumulative effects on soils or air quality beyond those effects analyzed in the above documents.

The cumulative effects of the Proposed Action would be increased timber harvesting in the vicinity, resulting in the loss of 5 acres of dispersal and foraging habitat for spotted owls.

Should the No Action alternative be selected, and WeyCo finds other means of accessing their 5-acre parcel, the effects would be similar to the Proposed Action. Should WeyCo not find other means of accessing their 5-acre parcel, there would be no effect on dispersal and foraging habitat for spotted owls.

VI. CONSULTATION AND COORDINATION

The following BLM resource specialists have examined the Proposed Action and provided either written or verbal input utilized in this assessment:

A. LIST OF PREPARERS

<u>Participant</u>	<u>Title</u>	<u>Resource Values Assigned</u>
Molly Widmer	Botanist	Botany
Mike Southard	Archaeologist	Culture Resources
Alison Center	Wildlife Biologist	Wildlife
Don Meckley	Area Engineer	Team Leader
Steve Steiner	Hydrologist	Hydrology
Ron Wold	Realty Specialist	Access

B. CONSULTATION

Consultation with the U.S. Fish and Wildlife Service (FWS) has been completed on

Proposed Action Items 1 and 2. It is the opinion of the FWS that these items are not likely to jeopardize the continued existence of the spotted owl.

Consultation with the National Marine Fisheries Service is not required for any of the alternatives analyzed herein.

C. PUBLIC PARTICIPATION

Ann Mathews, Eugene, OR
Carol Logan, Kalapooya Sacred Circle Alliance, Springfield, OR
Charles and Reida Kimmel, Eugene, OR
Confederated Tribes of the Siletz, Siletz, OR
Confederated Tribes of the Grand Ronde, Grand Ronde, OR
Craig Tupper, Eugene, OR
David Simone, Eugene, OR
George Sexton, American Lands Alliance, Eugene, OR
Governor's Forest Planning Team, Salem, OR
Harold Schroeder, Eugene, OR
Jan Wroncy, Eugene, OR
John Bianco, Creswell, OR
John Poynter, Lorane, OR
Kris and John Ward, Eugene, OR
Lane County Land Management, Eugene, OR
Neal Miller, Eugene, OR
Oregon Dept. of Forestry, Springfield, OR
Oregon Dept. of Fish and Wildlife, Springfield, OR
Oregon Dept. of Environmental Quality, Portland, OR
Oregon Natural Resources Council, Eugene, OR
Pam Hewitt, Marcola, OR
Peter Saraceno, Eugene, OR
Roseburg Forest Products, Roseburg, OR
Sierra Club - Many Rivers Group, Eugene, OR
Sondra Zemansky, Junction City, OR
Swanson-Superior Forest Products, Inc., Noti, OR
The Pacific Rivers Council, Eugene, OR
Weyerhaeuser Company, Springfield, OR

VII. ATTACHMENTS

Amendment No. 3 to Right-of-Way and Road Use Agreement E-476 and O. and C. Logging Road Right-of-Way Permit E-476.

VIII. REFERENCES

USDA, Forest Service and USDI Bureau of Land Management. February 1994. Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl. Portland, Oregon.

USDI, Bureau of Land Management. November 1994. Eugene District Proposed Resource Management Plan/Environmental Impact Statement. Eugene District Office, Eugene, Oregon.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Amendment No. 3
to
Right-of-Way and Road Use Agreement E-476
and
O & C Logging Road Right-of-Way Permit E-476

WHEREAS, the United States of America, hereinafter referred to as UNITED STATES, has issued O. and C. Logging Road Right-of-Way Permit No. E-476 to GEORGIA-PACIFIC CORPORATION on February 20, 1979, and

WHEREAS, the UNITED STATES has entered into Right-of-Way and Road Use Agreement No. E-476 with GEORGIA-PACIFIC CORPORATION dated February 20, 1979, and recorded in the Lane County, Oregon, Deed Records on Supplemental Reel #3, Reception No. 7918246 on March 30, 1979, and

WHEREAS, REX TIMBER, INC., by conveyance from GEORGIA-PACIFIC CORPORATION of the lands listed in Schedule 2 of said agreement and permit, and by assignment of said permit, approved by the United States on June 3, 1982, became the successor in interest to GEORGIA-PACIFIC CORPORATION in said agreement and permit, and

WHEREAS, WEYERHAEUSER COMPANY, hereinafter referred to as PERMITTEE, by conveyance of the lands listed in Schedule 2 of said agreement and permit, and by assignment of said permit, approved by the United States on May 18, 1988, became the successor in interest to REX TIMBER, INC. in said agreement and permit, and

WHEREAS, UNITED STATES and PERMITTEE wish to amend the above-mentioned agreement and permit to include additional lands of the PERMITTEE and of the UNITED STATES,

Now, THEREFORE, the parties hereto do mutually agree as follows:

1. That the following described real property should be, and is hereby, added to Schedule 1, United States Lands, of the said agreement and permit:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Subdivision</u>	<u>Period of Time</u>
21 S.	1 W.	33	A strip of land 50 feet wide located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, the centerline of which is shown in detail on Exhibit D (Amendment No. 3)	Perpetual

That certain existing road shown by an open circle line (" " " " ") on Exhibit C (Amendment No. 3) attached hereto across the following described lands:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Subdivision</u>	<u>Period of Time</u>
20 S,	2 W.	35	E½NE¼	Perpetual
21 S.	1 W.	33	N½NE¼, E½NW¼	Perpetual

2. That the following described real property should be, and is hereby, added to Schedule 2, Permittee's Lands, of the said agreement and permit:

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Subdivision</u>	<u>Period of Time</u>
20 S.	2 W.	26	SW¼SE¼	Perpetual
		36	NW¼NW¼	Perpetual
21 S.	1 W.	27	SW¼NW¼, S½	Perpetual
		28	E½, NE¼SW¼, S½SW¼	Perpetual
		29	Lots 15, 16	Perpetual
		32	NE¼NE¼, W½NE¼, E½NW¼	Perpetual
		34	N½NE¼, N½NW¼	Perpetual

3. That the following paragraph shall be added to Exhibit A which is attached to said permit as paragraph 16:

"The Permittee may not move timber between 1 March and 30 June over that certain existing road identified as BLM Road No. 21-1-33, which road is shown by an open circle line (" " " " ") on Exhibit C (Amendment No. 3) across the N½NE¼ and E½NW¼ of Section 33, T. 21 S., R. 1 W., W.M. This restriction may be waived by the Authorized Officer in a particular year if nesting or reproductive success surveys conducted according to U.S. Fish and Wildlife Service-endorsed guidelines reveal that northern spotted owls are non-nesting or that no young are present that year. Such waivers will be valid only until March 1 of the following year."

4. That the following paragraph shall be added to Exhibit B which is attached to said agreement as paragraph 21:

'The parties hereto agree that each may construct, improve and maintain heliports, heliponds with supporting water supply systems and temporary logging landings upon the other party's land described in Schedules 1 and 2, for forest management use by the constructing party, its agents, contractors and in the case of the United States its licensees; provided, however, that prior to the construction of a heliport, helipond, or temporary logging landing, approval of the location, design, access and flightways (if applicable) must be obtained in writing from the landowner and agreement must be reached as to the disposal of any timber on the site; and provided, further, that said heliports and heliponds shall not be used for aerial logging or log transportation, the storage of fuel and other petroleum products or as a site for the construction of any hangar, shop or other buildings without the written approval of the landowner subject to such additional terms and conditions as he may require.

The Permittee and the United States also agree that each party, its agents, contractors and in the case of the United States its licensees, may use the other's heliports and heliponds constructed upon lands described in Schedules 1 and 2, under terms and conditions to be mutually agreed upon.'

- 5. That Exhibit C, which is attached to said agreement and permit, shall be amended, as shown on Exhibit C (Amendment No. 3) attached hereto, to change the Agreement Area Boundary and to show the addition of lands to Schedule 1 and Schedule 2 as specified above.
- 6. That in all other respects said agreement and permit shall continue in full force and effect.

Dated this ____ day of _____, _____.

WEYERHAEUSER COMPANY

UNITED STATES OF AMERICA
Department of the Interior
Bureau of Land Management

By: _____

By: _____

Title: _____

Attest: _____

Title: Field Manager, South Valley
Resource Area

Title: _____

(SEAL)

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On this ____ day of _____, 19_____, before me personally appeared _____ and _____ to me known to be the _____ and _____ respectively of the corporation that executed the foregoing instrument, and they acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

(SEAL)

Notary Public in and for the
State of _____
Residing at _____
My commission expires: _____

AGENCY ACKNOWLEDGMENT

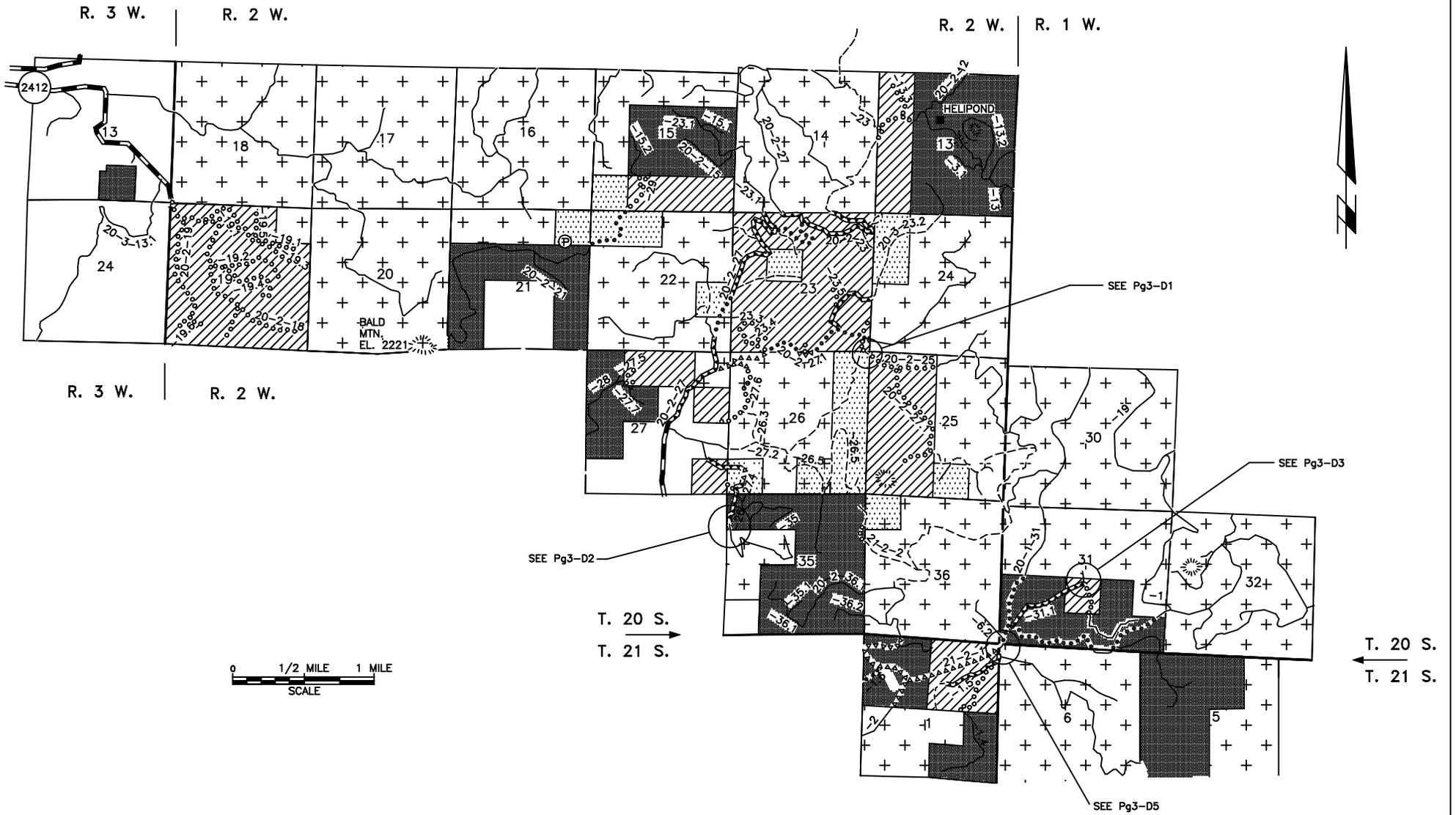
STATE OF OREGON)
) ss:
COUNTY OF _____)

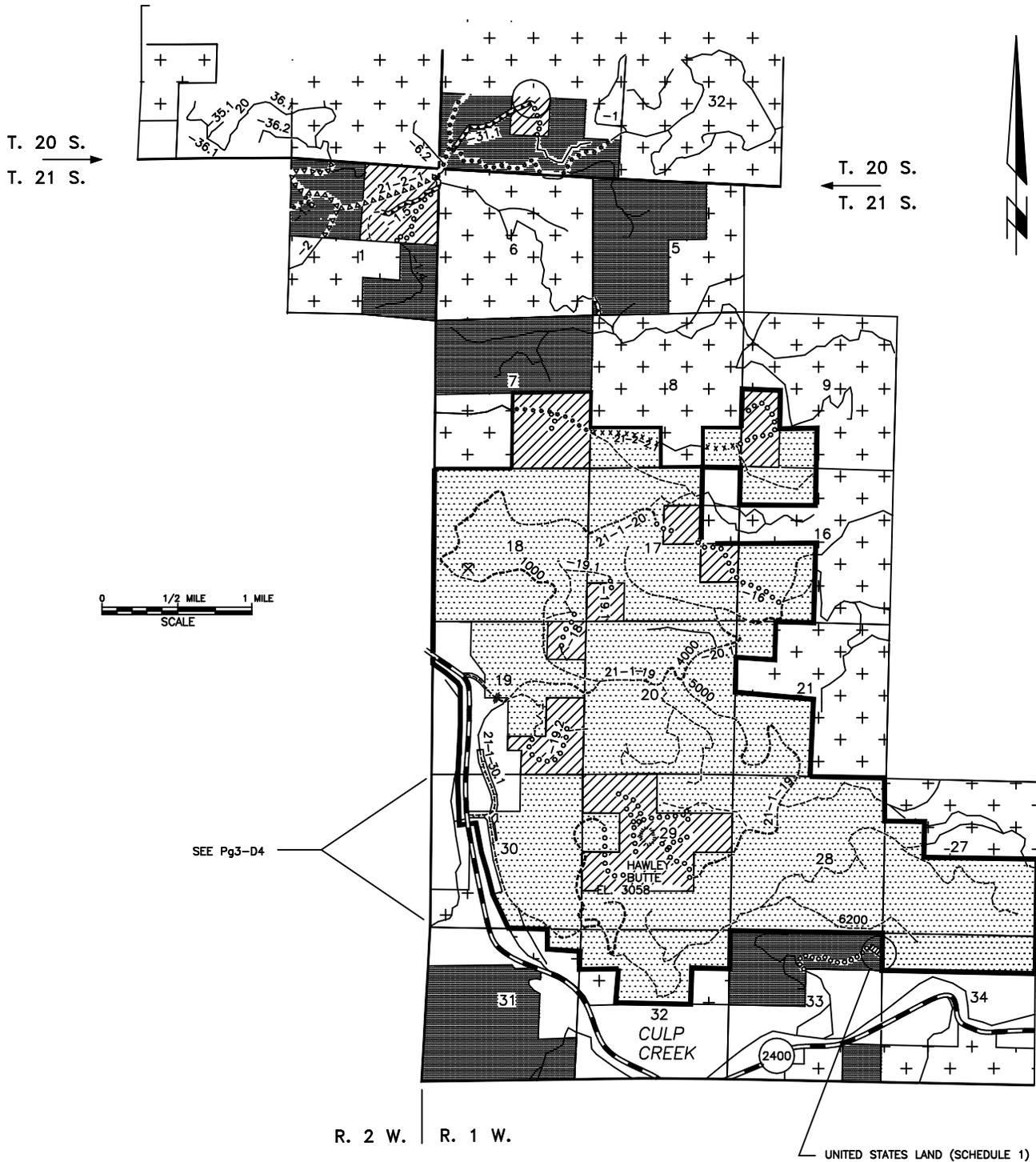
On this _____ day of _____, 19_____, before me appeared _____ to me personally known, who being duly sworn, did say that she is the District Manager of the Eugene District, Bureau of Land Management, United States Department of the Interior, and that she is authorized to sign the said instrument on behalf of the said Bureau, and she acknowledged that she executed the said instrument as her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

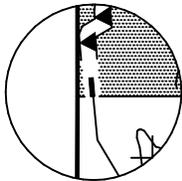
Notary Public in and for the
State of Oregon
Residing at _____
My commission expires _____



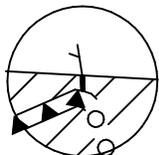




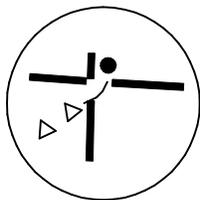
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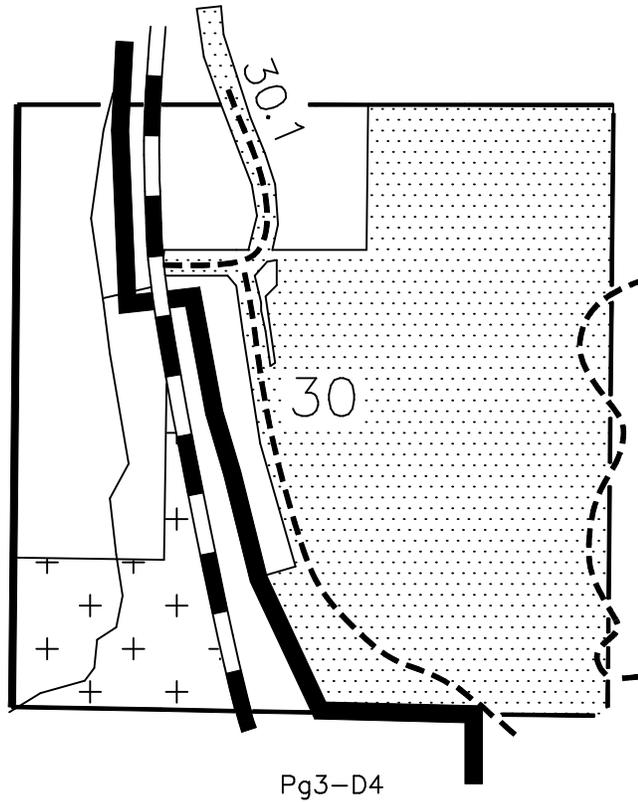
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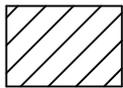
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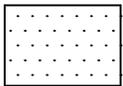
Pg3-D5



LEGEND



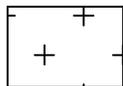
= UNITED STATES LANDS (SCHEDULE 1)



= PERMITTEE'S LANDS (SCHEDULE 2)



= OTHER UNITED STATES LANDS



= OTHER PERMITTEE LANDS



= PUBLIC ROADS

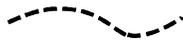


= ROADS NOT INCLUDED IN AGREEMENT E-476
OR PERMIT E-476



= AGREEMENT AREA BOUNDARY

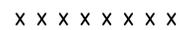
ROADS OWNED AND CONTROLLED BY THE PERMITTEE



= PARAGRAPH 1, EXHIBIT B



= PARAGRAPH 21, EXHIBIT B



= BLM USE PURSUANT TO ROAD
EASEMENT RE-E-421

ROADS OWNED AND CONTROLLED BY THE UNITED STATES



= PARAGRAPH 1, EXHIBIT A



= PARAGRAPH 13, EXHIBIT A



= PARAGRAPH 14, EXHIBIT A

UNITED STATES
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EUGENE DISTRICT OFFICE

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Finding of No Significant Impact

On the basis of the information contained in this Environmental Assessment, and all other information available to me, it is my determination that the Proposed Action will not have significant environmental impacts and does not, in and of itself, constitute a major federal action having a significant effect on the human environment. Therefore, an Environmental Impact Statement or a supplemental to the existing environmental impact statement is not necessary and will not be prepared.

Field Manager: _____

Date: _____

ENVIRONMENTAL ASSESSMENT NO. OR090-00-11

AMENDMENT TO RIGHT-OF-WAY AND ROAD USE AGREEMENT E-476
AND O. AND C. LOGGING ROAD RIGHT-OF-WAY PERMIT E-476

Prepared by
Janet Zentner
Forester

Bureau of Land Management
South Valley Resource Area
Eugene District
Oregon

April, 2000