

W. 8.C.5

ORIGINAL

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANE COUNTY, OREGON

IN THE MATTER OF ACCEPTING A RIGHT OF WAY )  
GRANT FROM THE BUREAU OF LAND MANAGEMENT )  
TO BE USED AS A PUBLIC ROAD EASEMENT FOR ) ORDER NO.  
HILLS CREEK ROAD )  
(COUNTY ROAD NUMBER 353) (18-01-15 & 21) )

**THIS MATTER** now coming before the Board of County Commissioners of Lane County and the United States, Department of the Interior, Bureau of Land Management, owning land within Lane County which is not within the limits of an incorporated city or town, having on this day presented to the Board of County Commissioners of Lane County a good and sufficient right of way grant, being properly executed and granting a portion of such land to the use of the public for road purposes and the Board of County Commissioners of Lane County deeming it proper, as a convenience for property owners in the area and as a benefit to the general public, to accept said grant for a public road easement;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that the said right of way grant shall be and is hereby accepted by the Board of County Commissioners of Lane County as a public road easement; and

**IT IS FURTHER ORDERED** that the described right of way is expressly accepted as a County Road by this Order; and

**IT IS FURTHER ORDERED** that the above Order shall be entered in the records of the Board of County Commissioners' Journal of Administration and in the road records for County Road Number 353 in the regular numbered road files in the County Surveyor's Office; and

**IT IS FURTHER ORDERED** that the deed be recorded in the Deed Records of the County and the Instrument Number be noted on this Order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

DEPARTMENT OF PUBLIC WORKS  
LAND MANAGEMENT DIVISION

BOARD OF COUNTY  
COMMISSIONERS  
LANE COUNTY, OREGON

Approved 10-21, 2005

Chair

By [Signature]  
Jeff Towery, Director

APPROVED AS TO FORM

Date 10-27-05 Lane County

[Signature]  
OFFICE OF CLERK OF COURT

Deed Instrument Number \_\_\_\_\_, Lane County, Oregon Deed Records.

FORM 2800-14  
(August 1985)

Issuing Office  
Eugene District, Oregon

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER OROR 57527

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1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Lane County, Oregon  
Department of Public Works  
3040 North Delta Highway  
Eugene, Oregon 97408-1696

receives a right to construct, operate, maintain, and terminate a roadway on public lands described as follows:

Parcel A: T. 18 S., R. 1 W., W.M., Lane County, Oregon: Those portions of Lot 14 of Sec. 15 and Lots 3, 7, and 8 of Sec. 21 located within 20 feet either side of the centerline of County Road 353, as shown on pages 1 and 2 of the attached Exhibit A.

Parcel B: T. 18 S., R. 1 W., W.M., Lane County, Oregon: That portion of Lot 3 of Sec. 21, as shown on page 3 of the attached Exhibit A and as described on the attached Exhibit C.

- b. The right-of-way or permit area granted herein is variable in width, approximately 2455 feet long and contains 2.38 acres more or less.
- c. This instrument is perpetual unless it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. Notwithstanding early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

## 3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

## 4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, descriptions or designs set forth in Exhibits A, B and C, dated July 31, 2002, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g. This grant supercedes any right-of-way obtained pursuant to the Act of July 26, 1866 (Revised Statute 2477). The right-of-way for Lane County Road No. 353 across the lands included in this grant shall henceforth be administered according to the terms and conditions of this grant and applicable Federal laws and regulations.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

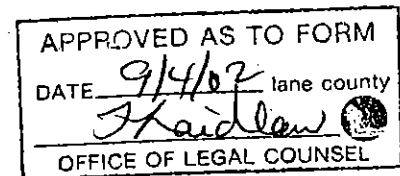
*William A. Van Vactor*  
 (Signature of Holder)  
for W. Van Vactor  
 William A. Van Vactor  
 County Administrator  
 (Title)

*Emily Rice*  
 (Signature of Authorized Officer)  
McKenzie Field Mgr.  
 (Title)

10/25/04 wmv  
 (Date)

9-9-02  
 (Effective Date of Grant)

## AGENCY ACKNOWLEDGMENT



STATE OF OREGON )  
 )  
 COUNTY OF LANE )

On this 9<sup>th</sup> day of September, 2002, before me appeared Emily Rice, to me personally known, who being duly sworn, did say that she is the Field Manager of the McKenzie Resource Area of the Eugene District of the 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 a voluntary act and deed.



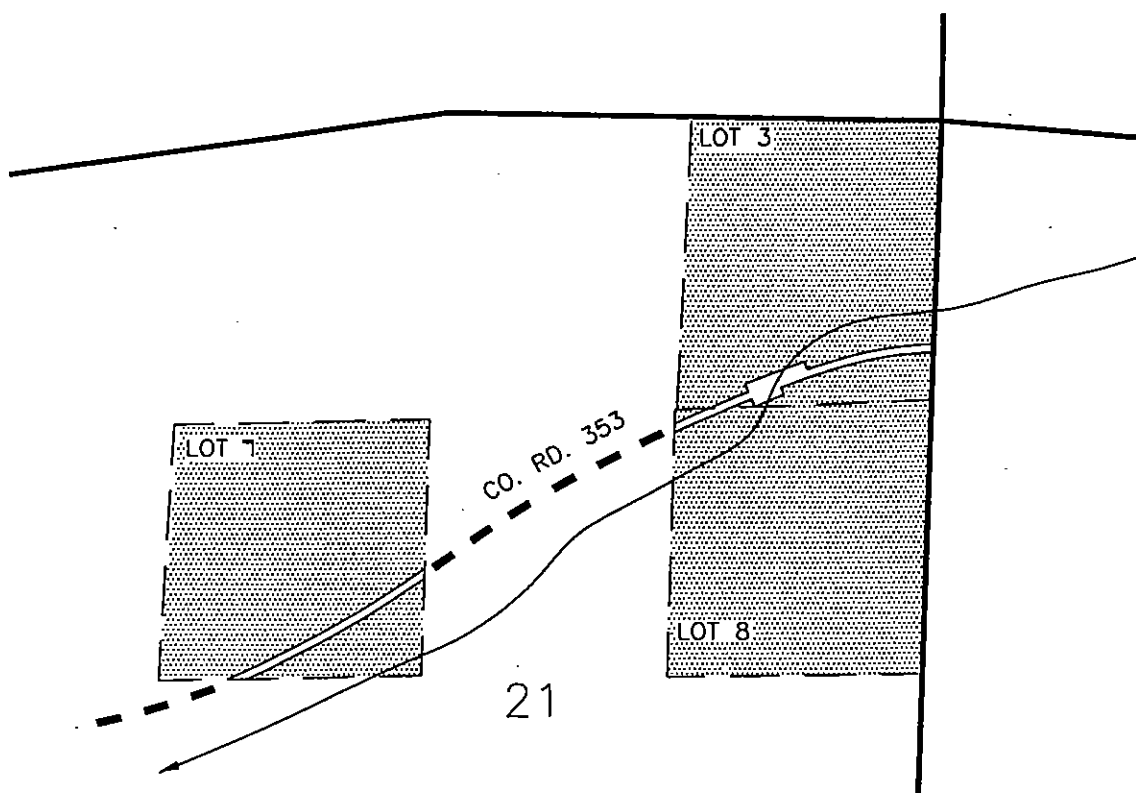
*Carolyn A. Tillery*  
 Notary Public in and for the  
 State of Oregon  
 My commission expires June 10, 2005

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

EXHIBIT "A"  
OR 57527  
JULY 31, 2002  
PAGE 1 OF 3

T. 18S. , R. 1W. , SEC. 21 , WILL. MER.

ORIGINAL



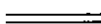
LEGEND



BLM OWNERSHIP



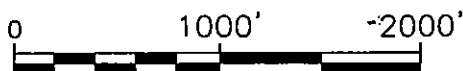
SECTION LINE



AREA IN RIGHT OF WAY GRANT



STREAM



SCALE

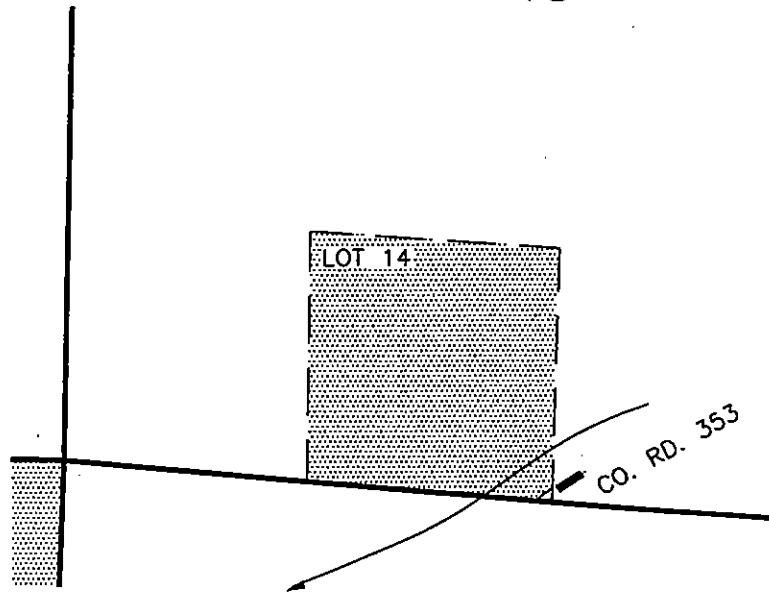
UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

EXHIBIT "A"  
OR 57527  
JULY 31, 2002  
PAGE 2 OF 3

T. 18S. , R. 1W. , SEC. 15 , WILL. MER.

ORIGINAL

15



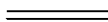
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BLM OWNERSHIP



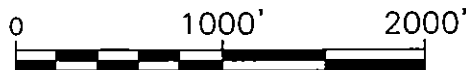
SECTION LINE



AREA IN RIGHT OF WAY GRANT



STREAM



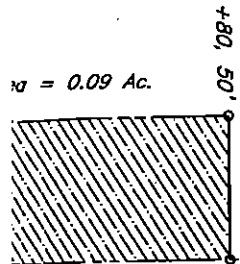
SCALE

T18S, R1W, WM

Exhibit A  
OR 57527  
July 31, 2002  
Page 3 of 3

ORIGINAL

▲ Corner common to  
Sections 15, 16, 21 & 22  
Per CSF #22929  
34,154.39 N  
33,628.08 E



N 77°11'30" E

Area = 0.04 Ac.

14+00

15+00

16+00

18-01-21 TL 100  
Department of the Interior  
Bureau of Land Management



PRINT SCHEDULE  
April 29, 2002 jrs  
June 21, 2002 rwr

LANE COUNTY DEPARTMENT OF PUBLIC WORKS

Hills Creek Road

M.P. 5.3

RIGHT OF WAY NO. 1538

SONNY P.A. CHICKERING  
COUNTY ENGINEER

OLIVER P. SNOWDEN  
DIRECTOR OF PUBLIC WORKS

COUNTY ROAD LEGAL NO. 353

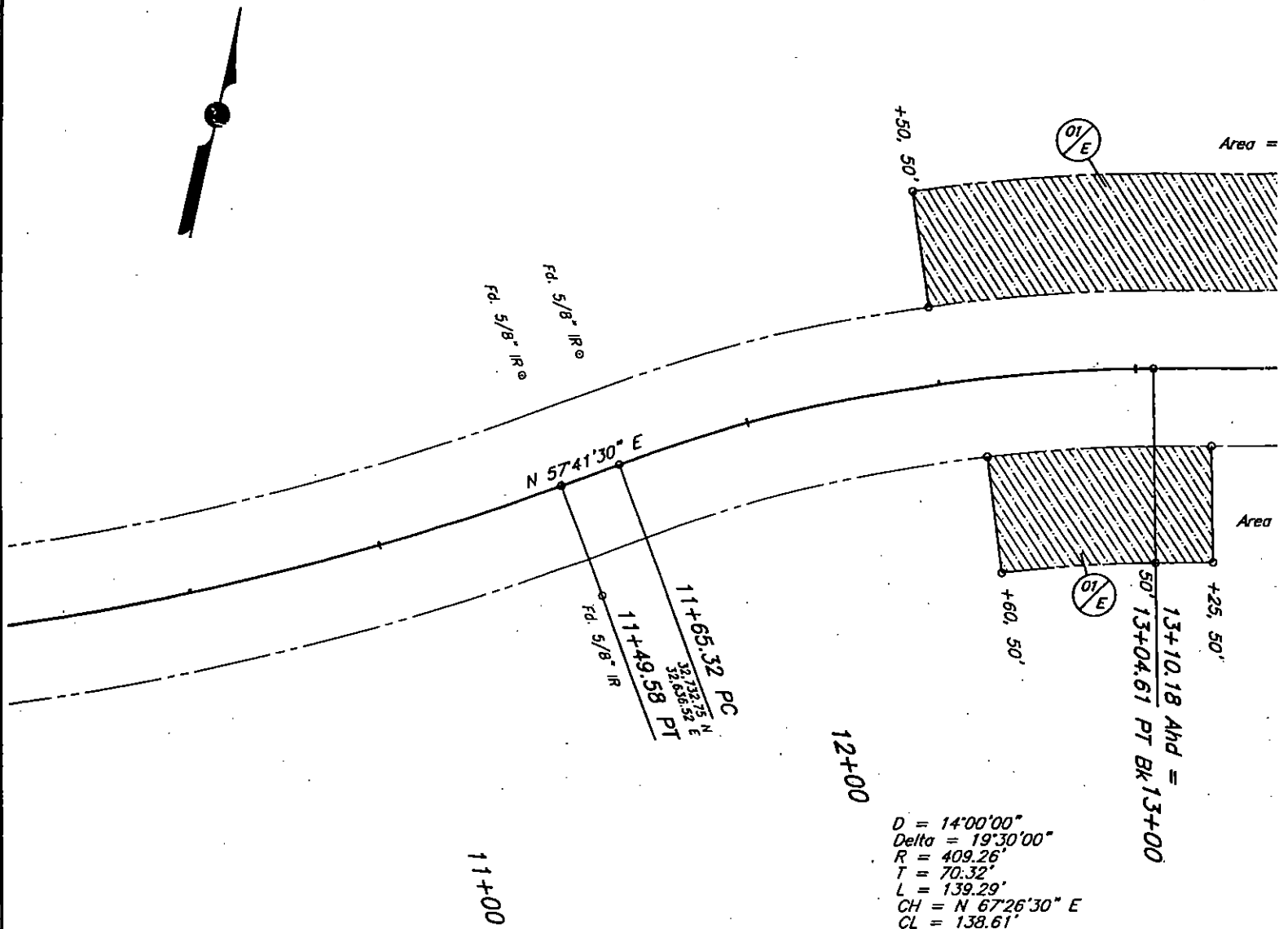
MAINTENANCE NO. M-6222

SCALE: AS SHOWN PROJECT NO. 6222-1 SHEET 1 OF 1

**ORIGINAL**

18-01-21 7L 100  
Department of the Interior  
Bureau of Land Management

Co  
Se  
Po  
M.  
H.



**LEGEND**

*A = Fee Acquisition*  
*E = Permanent Easement*  
*TC = Temporary Construction Easement*

GRAPHIC  
SCALE





Date: July 31, 2002

## EXHIBIT B

ADDITIONAL TERMS, CONDITIONS, AND STIPULATIONS

1. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant to the fullest extent that the appropriate statutes and constitution of the State of Oregon provide as of the date of this grant, or statutes enacted subsequent to the date of this grant and in effect at the time damage or injury occurs.
2. The United States will not be held liable for any damage to the road caused by the general public or as result of fire, wind, or other natural disasters or as a result of silvicultural practices, timber harvesting operations, or other actions stemming from the normal land management activities of the Bureau of Land Management.
3. The holder of this right-of-way grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
4. Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
5. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
6. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the Authorized Officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

7. The holder shall immediately discontinue construction activities upon written notice from the authorized officer that:

- A. threatened or endangered plants or animals protected under the Endangered Species Act of 1973, as amended, may be affected by the activities and a determination is made that consultation or reinitiation of consultation with the U.S. Fish and Wildlife Service is required concerning the species prior to continuing activities; or
- B. Federal Candidate (Category 1 and 2), sensitive or State listed species protected under BLM Manual 6840 - Special Status Species Management - have been discovered and a determination is made that continued activity under this grant would affect the species or its habitat.

Discontinued activities may be resumed upon receipt of written instructions and authorization from the authorized officer.

8. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic bench marks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority, if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands of the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

9. The holder shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous material, as defined in this paragraph, that will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term "hazardous material" also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any

fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

10. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.
11. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
12. The holder shall contact the authorized officer at least 2 days prior to the anticipated start of construction and/or any surface disturbing activities. Notification shall be made to the McKenzie area engineer at 683-6481.
13. No merchantable trees are to be cut or removed unless authorized in writing by the authorized officer.
14. Holder shall file proof of construction within 90 days of completion of construction and no later than two years from the date of this grant or from the date of approval of any amendments to this grant.

Date: July 31, 2002

**EXHIBIT C****LEGAL DESCRIPTION**

Parcels of land lying in Lot 3, Section 21, Township 18 South, Range 1 West of the Willamette Meridian, Lane County, Oregon, and being a portion of land owned by The Bureau of Land Management included in strips of land 50 feet in width lying on both sides of the centerline of Hills Creek Road between Engineers' Centerline Stations 12+60.00 POC and 13+25.00 POT on the southerly side and between Engineers' Centerline Stations 12+50.00 POC and 13+80.00 POT on the northerly side as re-surveyed by Lane County in 2002; the centerline being described as follows:

Beginning at Engineers' Centerline Station 11+65.32 PC, said station being 1421.64 feet South and 991.56 feet West of the Brass Cap marking the Northeast Corner of Section 21, Township 18 South, Range 1 West of the Willamette Meridian, Lane County, Oregon; run thence along a 409.26 foot radius curve right (the long chord of which bears North 67° 26' 30" East, 138.61 feet) a distance of 139.29 feet to Engineers' Centerline Station 13+04.61 PT Bk. = 13+10.18 POT Ah; thence North 77° 11' 30" East, 89.82 feet to Engineers' Centerline Station 14+00.00 POT and there ending, all in Lane County, Oregon.

The parcel of land to which this description applies lies outside of the existing right of way of Hills Creek Road and contains 0.13 of an acre, more or less.

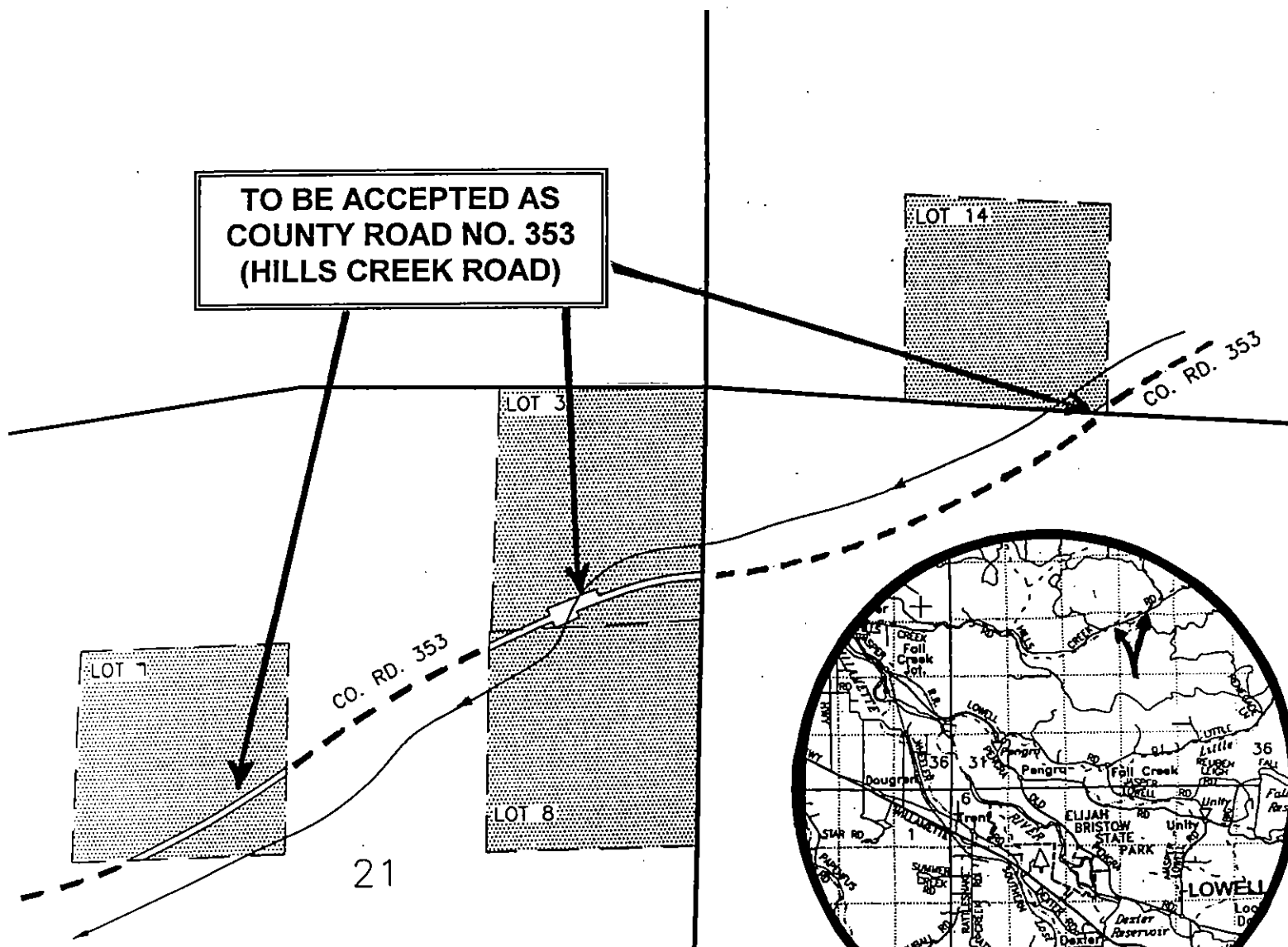
The bearings used herein are based on the Relocation of a portion of W.B. Scott Road, County Road No. 353 as platted by F.E. Waggoner, County Surveyor, in 1959.

Sections 15 & 21 T.18S. R.1W. W.M.  
LANE COUNTY

NO SCALE

15

TO BE ACCEPTED AS  
COUNTY ROAD NO. 353  
(HILLS CREEK ROAD)



21

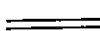
## LEGEND



BLM OWNERSHIP



SECTION LINE



AREA IN RIGHT OF WAY GRANT



STREAM



VICINITY MAP