

9110603

112663

Form 1860-9

(January 1988)

OR 45807(w)

112876

WHEREAS,

911210010

Mineral Interest

The United States of America

To all to whom these presents shall come, Greeting.

Agreement

9111050390

WEYERHAEUSER COMPANY

BK 0723PG 1037

VOL 1111 PAGE 1260

BOOK 126 PAGE 649

BOOK 127 PAGE 139

14.00

being the owner of certain tracts of land situated and included within the limits of or adjacent to the Gifford Pinchot National Forest, Washington, has under provisions of the General Exchange Act of March 20, 1922 (42 Stat. 465, as amended; 16 U.S.C. 485, 486); the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1715, 1716, 1717), and the Mount St. Helen's National Volcanic Monument Act of August 26, 1982, P.L. 97-243 (96 Stat. 301), reconveyed and relinquished ALL MINERAL AND GEOTHERMAL INTERESTS ONLY in the said tracts to the UNITED STATES OF AMERICA and has, under provisions of the said Acts, selected in lieu thereof ALL MINERAL AND GEOTHERMAL INTERESTS ONLY in the following tracts of land:

Willamette Meridian, Lewis County, Washington

T. 11 N., R. 5 E.

That portion of Mineral Survey (MS) 837 lying within secs. 28 and 29.

T. 13 N., R. 3 E.

sec. 6, All, fractional.

T. 13 N., R. 6 E.

sec. 34, All.

T. 13 N., R. 7 E.

sec. 16, S1/2NE1/4 and S1/2; sec. 20, All.

T. 14 N., R. 3 E.

sec. 10, All;
sec. 16, All;
sec. 20, All.

Willamette Meridian, Pierce County, Washington

T. 16 N., R. 7 E.

sec. 16, All.

Willamette Meridian, Cowlitz County, Washington

T. 8 N., R. 4 E.

sec. 20, All;
sec. 28, S1/2;
sec. 30, All, fractional;
sec. 32, All, fractional;
sec. 34, lots 1 to 4, inclusive, NE1/4SW1/4, S1/2NW1/4SW1/4, S1/2NW1/4SE1/4, and S1/2SW1/4NE1/4SE1/4.

Patent Number 46-91-0034

RECORDED AT REQUEST OF:
WEYERHAEUSER CO.
LAND TITLE DEPT.BOX C
TACOMA, WA 98477
91 OCT -3 AM 10:26GARY E. ZANDELL, AUDITOR
LEWIS COUNTY, WA.

REAL ESTATE EXCISE TAX

JAN 31 1992

PAID exempt

JW Deputy

SKAMAHIA COUNTY TREASURER

RECORDED
BRIAN SCOTT
AUDITOR
PIERCE CO. WASH.

91 NOV -5 AM 11:08

Glenn J. K...
By: 46
7-7-88
8-5-88
10-5-88

FILED FOR RECORD
SKAMAHIA CO. WASH
BY Weyerhaeuser

JAN 31 3 50 PM '92

P. Lowry
AUDITOR

GARY M. OLSON

FILED FOR RECORD
SKAMAHIA CO. WASH
BY Weyerhaeuser

JAN 2 11 36 AM '92

AUDITOR
GARY M. OLSON

Registered
Indexed, Dir
Indirect
Filed
Mailed

Registered
Indexed, Dir
Indirect
Filed
Mailed

2/2/92

9111050390

VOL. 48 PAGE 567

WHEN RECORDED PLEASE
RETURN DEED TO
WEYERHAEUSER COMPANY

BOX C TACOMA WA98477

911210010

BK0723P61038

OR 45807(W)

BOOK 127 PAGE 140
BOOK 126 PAGE 650

VOL 111 PAGE 1261

Willamette Meridian, Skamania County, Washington

T. 7 N., R. 5 E.

sec. 5, lots 1 and 5, SE1/4NW1/4NE1/4, NE1/4SW1/4NE1/4,
N1/2SE1/4NE1/4, SE1/4SE1/4NE1/4,
E1/2SW1/4SE1/4NE1/4, NW1/4SW1/4SE1/4NE1/4,
NE1/4NE1/4NE1/4SE1/4, and N1/2SE1/4SW1/4NE1/4;
sec. 12, N1/2 and SW1/4.

T. 8 N., R. 5 E.

sec. 34. All.

T. 10 N., R. 5 E.

Mineral Survey (MS) 888 lying within secs. 6 and 7.

Willamette Meridian, Stevens County, Washington

T. 32 N., R. 38 E.

sec. 19, lot 1, NE1/4NW1/4, W1/2NE1/4, and W1/2SE1/4,
(excluding patented mining claims in Mineral
Survey 1224).

T. 33 N., R. 38 E.

sec. 7, lots 7 to 12, inclusive, and S1/2SE1/4.

Willamette Meridian, Okanogan County, Washington

T. 30 N., R. 23 E.

sec. 18, lots 7, 11, 12, and 13, and NE1/4NE1/4.

T. 38 N., R. 26 E.

sec. 6, lots 2 and 3, SE1/4NW1/4, S1/2NE1/4,
and NE1/4SE1/4.

T. 40 N., R. 26 E.

sec. 21, lots 2 and 3;
sec. 28, lot 2;
sec. 31, NE1/4SE1/4 and E1/2NE1/4;
sec. 32, N1/2SE1/4, N1/2SW1/4, and NW1/4.

The areas described aggregate 10,123.71 acres according to the official
plats of the surveys of the said land, on file in the Bureau of Land
Management.

9111050390

Patent Number 46-91-0034

Amie VOL. 48 PAGE 568

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Form 1860-10
(April 1958)BOOK 126 PAGE 651
BOOK 127 PAGE 141

VOL 1111 PAGE 1262

OR 45807(W)

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES OF AMERICA unto WEYERHAEUSER COMPANY, all MINERAL AND GEOTHERMAL INTERESTS ONLY in the lands above described; TO HAVE AND TO HOLD the said MINERAL AND GEOTHERMAL INTERESTS in said lands with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging, unto the said Weyerhaeuser Company, its successors and assigns, forever; in accordance with "RIGHTS, COVENANTS AND CONDITIONS OF THE EXERCISE OF THE RIGHTS CONVEYED BY THIS PATENT" attached hereto as Exhibit "A"; and

EXCEPTING AND RESERVING TO THE UNITED STATES from the lands so granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States (Act of August 30, 1890, 43 U.S.C. 945).



IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in Portland, Oregon
the Twenty-sixth day of August
in the year of our Lord one thousand nine hundred and
Ninety-one and of the Independence of the
United States the two hundred and Fiftteenth

By Robert C. Dyallohan
Chief, Branch of Lands and
Minerals Operations

Patent Number **46-91-0034**VOL. 48 PAGE 569
9111050390

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OR 46909(W)

BK 0723PG 1040
BOOK 127 PAGE 142
BOOK 126 PAGE 652

EXHIBIT "A" - Page 1 of 5

VOL 1111 PAGE 1263

RIGHTS, COVENANTS AND CONDITIONS OF THE EXERCISE OF THE RIGHTS
CONVEYED BY THIS PATENT

The UNITED STATES OF AMERICA, acting by and through the Department of Agriculture, Forest Service (hereafter "Forest Service"), and WEYERHAEUSER COMPANY (hereafter "Weyerhaeuser"), (the Forest Service and Weyerhaeuser are referred to collectively as the "Parties"), mutually agree as follows:

I. Authority, Purposes and Intent of this Conveyance:

A. The conveyance of the mineral and geothermal interests together with ancillary rights of surface access (hereafter "subsurface rights") by this instrument along with attendant covenants and conditions is made pursuant to the Act establishing the Mount St. Helens National Volcanic Monument in the State of Washington (Public Law 97-243; 96 Stat. 301).

B. It is the intent of the Forest Service to exchange to Weyerhaeuser the herein described subsurface rights to afford it the opportunity to explore and develop such rights for economic profit while, at the same time, assuring that the surface shall remain suitable for National Forest purposes and, to the extent practicable, be consistent with other multiple uses of the surface.

C. Any subsequent changes in Forest Service land management plans or regulations affecting the exercise of the agency discretion shall not affect the terms and conditions of this agreement. Nothing herein is intended to waive or disclaim the applicability of any State or Federal law.

D. These terms and conditions are binding on the Parties, their agents, permit holders, successors and assigns. The powers of the Forest Service provided herein may be transferred at any time under applicable law to another agency.

II. Covenants and Restrictions. The conveyance of the subsurface rights is subject to the following:

A. Prior Notice and Permit Requirements - Whoever undertakes to exercise the subsurface rights (hereafter "permit holder") shall give prior written notice to the Forest Service and shall submit satisfactory evidence of authority to exercise such rights. A surface occupancy permit shall be required for any occupancy and use of National Forest surface. The permit shall interpret and insure compliance with these covenants and restrictions and may require the posting of an adequate bond for that purpose and payment of reasonable fees for surface use.

B. Minimal Surface to be Affected - Only so much of the surface of the lands shall be occupied, used or disturbed as is reasonably necessary in bona fide prospecting for, drilling, mining (including the milling or concentration of ores) and removal of the mineral, oil, gas, geothermal, or other inorganic substances. For geothermal resources, use of the surface includes processing, recovery and utilization of steam. Strip and similar surface mining methods

Patent Number 46-91-0034

VOL 483 PAGE 570
9111050390

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OR 46909(W)

EXHIBIT "A" - Page 2 of 5

BOOK

PAGE

124

653

BOOK 127 PAGE 43

VOL 111 PAGE 1264

for coal shall not be permitted on National Forest surface lands overlying conveyed subsurface rights. Strip and similar surface mining methods for other than coal on such lands shall be permitted only to the extent such methods would have been permissible under the reservations of subsurface rights in a deed dated November 17, 1982, from WEYERHAEUSER COMPANY to the United States (Deed Book 81, Pages 774-789, Auditor's File No. 95042, records of Skamania County, Washington).

C. Timber Resources - Timber and/or young growth cut or destroyed in connection with the exercise of the subsurface rights shall be paid for at rates determined by the Forest Service to be fair and equitable for comparable timber and/or young growth in the locality. All slash resulting from cutting or destruction of timber or young growth shall be disposed of as required by the Forest Service.

D. Pollution Abatement - In all operations for the prospecting, mining, and removal of minerals, oil, gas, geothermal resources and any other subsurface rights, reasonable provisions shall be made for the disposal of tailings, dumpage, substances and wastes and other deleterious materials in such manner as to minimize adverse impact upon the environment and forest surface resources. Weyerhaeuser and the permit holder will comply with all applicable Federal and State laws or regulations pertaining to pollution abatement including, but not limited to, the Clean Air Act, Clean Water Act, Safe Drinking Water Act and the Resource Conservation and Recovery Act, as they may be amended from time to time.

E. Fire Prevention and Control - While conducting any activities and operations, the permit holder, contractors, subcontractors, agents and assigns shall diligently prevent and suppress fires and comply with all rules and regulations applicable to fires on the land.

F. Improvements - The permit holder shall repair or replace any improvements damaged or destroyed by operations. Prior to damage or destruction of any improvements or to breaching any road or trail in the exercise of these rights, satisfactory arrangements must be made with the Forest Service to provide a suitable replacement facility in a mutually acceptable location on a suitable schedule. The parties agree that a suitable schedule will generally provide for replacement prior to breaching. All new structures and other improvements and materials shall be removed from the lands within one year after the date of termination of the permit. Should the permit holder fail to remove them on time, the Forest Service may remove, destroy or otherwise dispose of them at the permit holder's expense or, in the alternative, at the option of the Forest Service, such structures, improvements and materials can be deemed abandoned and be thereafter the property of the United States of America.

G. Indicator, Sensitive, Threatened and Endangered Species -

1. No surface occupancy will be permitted that would constitute a "taking" under section 9 of the Endangered Species Act (16 USC 1531, et seq.), or would jeopardize the continued existence of any plant or animal species listed under the Endangered Species Act.

Patent Number 46-91-0034

91 VOL 483 PAGE 571
1050390

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BK 0723PG 1042

OR 46909(W)

EXHIBIT "A" - Page 3 of 5

BOOK 126 PAGE 654

BOOK 127 PAGE 144

VOL 111 PAGE 1265

2. Any surface occupancy within areas designated by the U.S. Fish and Wildlife Service as critical habitat under the Endangered Species Act, or identified as essential habitat in lieu of critical habitat designation, must be consistent with any Recovery Plan for the listed species and with any additional conditions imposed by the Forest Service for the protection of the listed species. Essential habitat is determined by the Regional Forester for listed species prior to formal designation of critical habitat by the Fish and Wildlife Service.

3. Certain areas (described by legal description or map on appendix A to this instrument) are believed to contain spotted owls, pileated woodpeckers, pine martens and other species which might be listed under the Endangered Species Act. Weyerhaeuser acknowledges that surface use of these areas could be prohibited under paragraph (1) or restricted under paragraph (2) if the species is listed and continues to occupy the area. It is believed that these species do not occupy the remaining areas covered by the patent at this time, but Weyerhaeuser acknowledges that changes in habitat conditions or populations or other events could cause other areas to become subject to paragraphs (1) and (2).

4. Weyerhaeuser acknowledges that the Forest Service provides for the viability of wildlife and plants not listed under the Endangered Species Act, in particular, pine martens, spotted owls, pileated woodpeckers and other species identified in the agency's planning process as "indicator" and "sensitive" species, to the extent consistent with its other policies, goals and legal obligations. Although Weyerhaeuser has valid and existing rights to access and certain uses on reasonable terms, it acknowledges that such terms may include wildlife and plant protection conditions comparable to those then being imposed by the Forest Service under easements and contracts for surface occupancy of similar lands having comparable resource values in the Gifford Pinchot and other relevant National Forests.

H. Reclamation and Restoration - All geothermal activities and mineral prospecting, drilling, mining and removal of material shall be performed in a prompt workmanlike manner that will allow the use and management of the surface for National Forest purposes to be resumed without unreasonable delay. Upon completion or cessation of operations on a given area, the surface shall be restored to a safe condition which, in the opinion of the Forest Service, is reasonably satisfactory for National Forest purposes. Such restoration measures prescribed by the Forest Service may include, but are not necessarily limited to:

1. Control of erosion and landslides;
2. Control of water runoff;
3. Appropriate disposal, deployment, arrangement or treatment of wastes and tailings to minimize adverse impact upon the environment and forest surface resources, and the isolation, removal or control of toxic materials;

Patent Number 46-91-0034

REVOL 484 PAGE 572
9111050390

911210010

BK0723PG1043

OR 46909(W)

EXHIBIT "A" - Page 4 of 5

BOOK 126 PAGE 655

BOOK 127 PAGE 145

VOL 1111 PAGE 1266

4. Reshaping, reseeding and revegetation of disturbed areas, where reasonably practicable;
5. Rehabilitation of fisheries and wildlife habitat, and
6. Unless otherwise approved by an authorized Forest Service officer, roads no longer needed for operations shall be closed to normal vehicular traffic; bridges and culverts removed; cross drains, dips, or water bars shall be constructed, and the road surface shaped to as near a natural contour as practicable, stabilized and revegetated to the satisfaction of the Forest Service.

I. Public Safety - In the permit, the authorized Forest Service officer may impose reasonable restrictions to assure that operations do not pose an unreasonable danger to National Forest users.

J. Other Terms and Conditions - The authorized Forest Service officer may provide other terms and conditions reasonably necessary or desirable for the protection of National Forest resources consistent with the valid and existing rights of the subsurface owner to reasonable use and enjoyment of the subsurface rights.

III. Reservation of Mineral Materials. - The United States reserves the right to quarry or otherwise remove at no cost those mineral materials defined in the Act of July 31, 1947 (30 U.S.C. 601), generally referred to as the act dealing with common varieties of mineral materials. Such mineral materials must be utilized for National Forest purposes only.

IV. Access Over National Forest Lands - As provided herein, appurtenant to the rights to prospect and develop subsurface rights as defined in this instrument is the right of adequate access over National Forest lands for such prospecting and development purposes:

A. Applicable Law - Rights-of-way shall be issued under the authority of and consistent with the Federal Land Policy and Management Act of 1976; section 1323(a) of the Alaska National Interests Lands Conservation Act; and the Forest Roads and Trails Act of 1964 for those areas now or hereafter covered by a road right-of-way construction and use agreement.

B. Cooperative Construction and Use - Where there are areas subject to this instrument of mixed Forest Service and Weyerhaeuser ownership, or their successors or assigns, the Parties agree that to the extent mutually feasible and advantageous, the Parties will join in planning, constructing, reconstructing, improving, maintaining, and using an adequate road system on the basis of each party bearing the proportion of the costs attributable to the anticipated use as provided at 36 C.F.R. 212.11. The Parties may require reciprocal benefits in providing access across lands of intermingled ownership.

Patent Number 46-91-0034

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Vol. 484 PAGE 573

911210010

BK 0723PG1044

OR 46909(W)

EXHIBIT "A" - Page 5 of 5

BOOK PAGE

126 656
BOOK 127 PAGE 146

VOL 1111 PAGE 1267

C. Public Use - The public may have free use of any road for which the United States shares in the costs of construction or maintenance, provided that Weyerhaeuser will not be required to perform maintenance required as a result of use by the general public. The Forest Service may restrict public use for safety or resource protection purposes.

D. Use of Existing Roads - The use of any road or segment thereof may be conditioned upon the payment to the United States of the proportionate share of the cost and bearing of proportionate maintenance as determined by the Forest Service to be attributable to the mineral owner's or hauler's use. All use shall be subject to the traffic rules imposed on other users of the road.

E. Cost Share Agreements - The parties agree that the Forest Roads and Trails Act of 1964 shall be authority for rights-of-way in cost share areas. The parties further agree that in the event there is a cost share agreement now or hereafter in effect, such agreement may be mutual agreement of the Parties supersede provisions of Part IV-B, C & D above.

V. Indemnification - The owner and operators of the subsurface rights shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs, the United States shall suffer as the result of the owner's or operator's use or occupancy of the land or interests in land.

911210010

REQUEST OF *Weyerhaeuser Co.*VOL 1111 PAGE 1260
DEC 10 9 37 AM '91DARLENE F. FOSIER
COWLITZ, ATTORNEYRE *S. J. Dep. for P.W.*Patent Number 46-91-0034

9111050390

VOL. 48 PAGE 574

112876
WHEREAS,

WEYERHAEUSER COMPANY

BOOK/27 PAGE/39 11.00

being the owner of certain tracts of land situated and included within the limits of or adjacent to the Gifford Pinchot National Forest, Washington, has under provisions of the General Exchange Act of March 20, 1922 (42 Stat. 465, as amended; 16 U.S.C. 485, 486); the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1715, 1716, 1717), and the Mount St. Helen's National Volcanic Monument Act of August 26, 1982, P.L. 97-243 (96 Stat. 301), reconveyed and relinquished ALL MINERAL AND GEOTHERMAL INTERESTS ONLY in the said tracts to the UNITED STATES OF AMERICA and has, under provisions of the said Acts, selected in lieu thereof ALL MINERAL AND GEOTHERMAL INTERESTS ONLY in the following tracts of land:

14771

REAL ESTATE EXCISE TAX

JAN 31 1962

PAID - exempt

John Agency

SKAMAWIA COUNTY TREASURER

RECORDED
BRIAN SCHNITZG
AUSTIN PIERCE CO. WASH.

91 NOV -5 AM 11:03

Glenda J. Krieger - St. Charles County, Mo.
Sgt. McL R. Russell 7-35-000, 1300
8-35-1300
10-35-690

sec. 10, All;
sec. 16, All;
sec. 20, All.

16 N., R. 7 E.
sec. 16. All

sec. 20, All;
sec. 28, S1/2;
sec. 30, All, fractional;
sec. 32, All, fractional;
sec. 34, lots 1 to 4, inclusive, NE1/4SW1/4, S1/2NW1/4SW1/4,
S1/2NW1/4SE1/4, and S1/2SW1/4NE1/4SE1/4.

VOL.484PAGE567

WHEN RECORDED PLEASE
RETURN DEED TO
WEYERHAEUSER COMPANY
BOX C TACOMA WA98477

Patent Number **46-91-0034**

FILED FOR RECORD
SKAMANIA CO, WASH

Jan 2 11 36 AM '92

AUDITOR

GARY M. OLSON

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Serialized

Patent Number

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BK 0723P61038

OR 45807(W)

BOOK 127 PAGE 140
BOOK 126 PAGE 650

VOL 111 PAGE 1261

Willamette Meridian, Skamania County, Washington

T. 7 N., R. 5 E.

sec. 5, lots 1 and 5, SE1/4NW1/4NE1/4, NE1/4SW1/4NE1/4,
N1/2SE1/4NE1/4, SE1/4SE1/4NE1/4,
E1/2SW1/4SE1/4NE1/4, NW1/4SW1/4SE1/4NE1/4,
NE1/4NE1/4NE1/4SE1/4, and N1/2SE1/4SW1/4NE1/4;
sec. 12, N1/2 and SW1/4.

T. 8 N., R. 5 E.

sec. 34. All.

T. 10 N., R. 5 E.

Mineral Survey (MS) 888 lying within secs. 6 and 7.

Willamette Meridian, Stevens County, Washington

T. 32 N., R. 38 E.

sec. 19, lot 1, NE1/4NW1/4, W1/2NE1/4, and W1/2SE1/4,
(excluding patented mining claims in Mineral
Survey 1224).

T. 33 N., R. 38 E.

sec. 7, lots 7 to 12, inclusive, and S1/2SE1/4.

Willamette Meridian, Okanogan County, Washington

T. 30 N., R. 23 E.

sec. 18, lots 7, 11, 12, and 13, and NE1/4NE1/4.

T. 38 N., R. 26 E.

sec. 6, lots 2 and 3, SE1/4NW1/4, S1/2NE1/4,
and NE1/4SE1/4.

T. 40 N., R. 26 E.

sec. 21, lots 2 and 3;
sec. 28, lot 2;
sec. 31, NE1/4SE1/4 and E1/2NE1/4;
sec. 32, N1/2SE1/4, N1/2SW1/4, and NW1/4.

The areas described aggregate 10,123.71 acres according to the official
plats of the surveys of the said land, on file in the Bureau of Land
Management.

Patent Number 46-91-0034

9111050390

VOL 48 PAGE 568

911210010

BK 0723PG 1039

Form 1860-10
(April 1988)BOOK 126 PAGE 651
BOOK 127 PAGE 141

VOL 1111 PAGE 1262

OR 45807(W)

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES OF AMERICA unto WEYERHAEUSER COMPANY, all MINERAL AND GEOTHERMAL INTERESTS ONLY in the lands above described; TO HAVE AND TO HOLD the said MINERAL AND GEOTHERMAL INTERESTS in said lands with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging, unto the said Weyerhaeuser Company, its successors and assigns, forever; in accordance with "RIGHTS, COVENANTS AND CONDITIONS OF THE EXERCISE OF THE RIGHTS CONVEYED BY THIS PATENT" attached hereto as Exhibit "A"; and

EXCEPTING AND RESERVING TO THE UNITED STATES from the lands so granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States (Act of August 30, 1890, 43 U.S.C. 945).



IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in Portland, Oregon
the Twenty-sixth day of August
in the year of our Lord one thousand nine hundred and
Ninety-one and of the Independence of the
United States the two hundred and Fiftieth

By Robert C. Maffett
Chief, Branch of Lands and
Minerals Operations

Patent Number 46-91-0034VOL 481 PAGE 569
9111050390

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OR 46909(W)

EXHIBIT "A" - Page 1 of 5

BK 0723PG1040
BOOK 127 PAGE 142
BOOK 126 PAGE 652

VOL 111 PAGE 1263

RIGHTS, COVENANTS AND CONDITIONS OF THE EXERCISE OF THE RIGHTS
CONVEYED BY THIS PATENT

The UNITED STATES OF AMERICA, acting by and through the Department of Agriculture, Forest Service (hereafter "Forest Service"), and WEYERHAEUSER COMPANY (hereafter "Weyerhaeuser"), (the Forest Service and Weyerhaeuser are referred to collectively as the "Parties"), mutually agree as follows:

I. Authority, Purposes and Intent of this Conveyance:

A. The conveyance of the mineral and geothermal interests together with ancillary rights of surface access (hereafter "subsurface rights") by this instrument along with attendant covenants and conditions is made pursuant to the Act establishing the Mount St. Helens National Volcanic Monument in the State of Washington (Public Law 97-243; 96 Stat. 301).

B. It is the intent of the Forest Service to exchange to Weyerhaeuser the herein described subsurface rights to afford it the opportunity to explore and develop such rights for economic profit while, at the same time, assuring that the surface shall remain suitable for National Forest purposes and, to the extent practicable, be consistent with other multiple uses of the surface.

C. Any subsequent changes in Forest Service land management plans or regulations affecting the exercise of the agency discretion shall not affect the terms and conditions of this agreement. Nothing herein is intended to waive or disclaim the applicability of any State or Federal law.

D. These terms and conditions are binding on the Parties, their agents, permit holders, successors and assigns. The powers of the Forest Service provided herein may be transferred at any time under applicable law to another agency.

II. Covenants and Restrictions. The conveyance of the subsurface rights is subject to the following:

A. Prior Notice and Permit Requirements - Whoever undertakes to exercise the subsurface rights (hereafter "permit holder") shall give prior written notice to the Forest Service and shall submit satisfactory evidence of authority to exercise such rights. A surface occupancy permit shall be required for any occupancy and use of National Forest surface. The permit shall interpret and insure compliance with these covenants and restrictions and may require the posting of an adequate bond for that purpose and payment of reasonable fees for surface use.

B. Minimal Surface to be Affected - Only so much of the surface of the lands shall be occupied, used or disturbed as is reasonably necessary in bona fide prospecting for, drilling, mining (including the milling or concentration of ores) and removal of the mineral, oil, gas, geothermal, or other inorganic substances. For geothermal resources, use of the surface includes processing, recovery and utilization of steam. Strip and similar surface mining methods

Patent Number 46-91-0034

VOL 48 PAGE 570
9111050390

911210010

8K0723PG1041

OR 46909(W)

EXHIBIT "A" - Page 2 of 5

BOOK PAGE

124 653

BOOK 127 PAGE 43

VOL 111 PAGE 1264

for coal shall not be permitted on National Forest surface lands overlying conveyed subsurface rights. Strip and similar surface mining methods for other than coal on such lands shall be permitted only to the extent such methods would have been permissible under the reservations of subsurface rights in a deed dated November 17, 1982, from WEYERHAEUSER COMPANY to the United States (Deed Book 81, Pages 774-789, Auditor's File No. 95042, records of Skamania County, Washington).

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D. Pollution Abatement - In all operations for the prospecting, mining, and removal of minerals, oil, gas, geothermal resources and any other subsurface rights, reasonable provisions shall be made for the disposal of tailings, dumpage, substances and wastes and other deleterious materials in such manner as to minimize adverse impact upon the environment and forest surface resources. Weyerhaeuser and the permit holder will comply with all applicable Federal and State laws or regulations pertaining to pollution abatement including, but not limited to, the Clean Air Act, Clean Water Act, Safe Drinking Water Act and the Resource Conservation and Recovery Act, as they may be amended from time to time.

E. Fire Prevention and Control - While conducting any activities and operations, the permit holder, contractors, subcontractors, agents and assigns shall diligently prevent and suppress fires and comply with all rules and regulations applicable to fires on the land.

F. Improvements - The permit holder shall repair or replace any improvements damaged or destroyed by operations. Prior to damage or destruction of any improvements or to breaching any road or trail in the exercise of these rights, satisfactory arrangements must be made with the Forest Service to provide a suitable replacement facility in a mutually acceptable location on a suitable schedule. The parties agree that a suitable schedule will generally provide for replacement prior to breaching. All new structures and other improvements and materials shall be removed from the lands within one year after the date of termination of the permit. Should the permit holder fail to remove them on time, the Forest Service may remove, destroy or otherwise dispose of them at the permit holder's expense or, in the alternative, at the option of the Forest Service, such structures, improvements and materials can be deemed abandoned and be thereafter the property of the United States of America.

G. Indicator, Sensitive, Threatened and Endangered Species -

1. No surface occupancy will be permitted that would constitute a "taking" under section 9 of the Endangered Species Act (16 USC 1531, et seq.), or would jeopardize the continued existence of any plant or animal species listed under the Endangered Species Act.

Patent Number 46-91-0034

91 VOL 483 PAGE 571
91 1050390

911210010

BK0723PG1042

OR 46909(W)

EXHIBIT "A" - Page 3 of 5

BOOK 126 PAGE 654

BOOK 127 PAGE 144

VOL 111 PAGE 1265

2. Any surface occupancy within areas designated by the U.S. Fish and Wildlife Service as critical habitat under the Endangered Species Act, or identified as essential habitat in lieu of critical habitat designation, must be consistent with any Recovery Plan for the listed species and with any additional conditions imposed by the Forest Service for the protection of the listed species. Essential habitat is determined by the Regional Forester for listed species prior to formal designation of critical habitat by the Fish and Wildlife Service.

3. Certain areas (described by legal description or map on appendix A to this instrument) are believed to contain spotted owls, pileated woodpeckers, pine martens and other species which might be listed under the Endangered Species Act. Weyerhaeuser acknowledges that surface use of these areas could be prohibited under paragraph (1) or restricted under paragraph (2) if the species is listed and continues to occupy the area. It is believed that these species do not occupy the remaining areas covered by the patent at this time, but Weyerhaeuser acknowledges that changes in habitat conditions or populations or other events could cause other areas to become subject to paragraphs (1) and (2).

4. Weyerhaeuser acknowledges that the Forest Service provides for the viability of wildlife and plants not listed under the Endangered Species Act, in particular, pine martens, spotted owls, pileated woodpeckers and other species identified in the agency's planning process as "indicator" and "sensitive" species, to the extent consistent with its other policies, goals and legal obligations. Although Weyerhaeuser has valid and existing rights to access and certain uses on reasonable terms, it acknowledges that such terms may include wildlife and plant protection conditions comparable to those then being imposed by the Forest Service under easements and contracts for surface occupancy of similar lands having comparable resource values in the Gifford Pinchot and other relevant National Forests.

H. Reclamation and Restoration - All geothermal activities and mineral prospecting, drilling, mining and removal of material shall be performed in a prompt workmanlike manner that will allow the use and management of the surface for National Forest purposes to be resumed without unreasonable delay. Upon completion or cessation of operations on a given area, the surface shall be restored to a safe condition which, in the opinion of the Forest Service, is reasonably satisfactory for National Forest purposes. Such restoration measures prescribed by the Forest Service may include, but are not necessarily limited to:

1. Control of erosion and landslides;
2. Control of water runoff;
3. Appropriate disposal, deployment, arrangement or treatment of wastes and tailings to minimize adverse impact upon the environment and forest surface resources, and the isolation, removal or control of toxic materials;

Patent Number 46-91-0034

VOL 484 PAGE 572
9111050390

911210010

BK 0723PG1043

OR 46909(W)

EXHIBIT "A" - Page 4 of 5

BOOK 126 PAGE 655

BOOK 127 PAGE 145

VOL 111 PAGE 1266

4. Reshaping, reseeding and revegetation of disturbed areas, where reasonably practicable;

5. Rehabilitation of fisheries and wildlife habitat, and

6. Unless otherwise approved by an authorized Forest Service officer, roads no longer needed for operations shall be closed to normal vehicular traffic; bridges and culverts removed; cross drains, dips, or water bars shall be constructed, and the road surface shaped to as near a natural contour as practicable, stabilized and revegetated to the satisfaction of the Forest Service.

I. Public Safety - In the permit, the authorized Forest Service officer may impose reasonable restrictions to assure that operations do not pose an unreasonable danger to National Forest users.

J. Other Terms and Conditions - The authorized Forest Service officer may provide other terms and conditions reasonably necessary or desirable for the protection of National Forest resources consistent with the valid and existing rights of the subsurface owner to reasonable use and enjoyment of the subsurface rights.

III. Reservation of Mineral Materials. - The United States reserves the right to quarry or otherwise remove at no cost those mineral materials defined in the Act of July 31, 1947 (30 U.S.C. 601), generally referred to as the act dealing with common varieties of mineral materials. Such mineral materials must be utilized for National Forest purposes only.

IV. Access Over National Forest Lands - As provided herein, appurtenant to the rights to prospect and develop subsurface rights as defined in this instrument is the right of adequate access over National Forest lands for such prospecting and development purposes:

A. Applicable Law - Rights-of-way shall be issued under the authority of and consistent with the Federal Land Policy and Management Act of 1976; section 1323(a) of the Alaska National Interests Lands Conservation Act; and the Forest Roads and Trails Act of 1964 for those areas now or hereafter covered by a road right-of-way construction and use agreement.

B. Cooperative Construction and Use - Where there are areas subject to this instrument of mixed Forest Service and Weyerhaeuser ownership, or their successors or assigns, the Parties agree that to the extent mutually feasible and advantageous, the Parties will join in planning, constructing, reconstructing, improving, maintaining, and using an adequate road system on the basis of each party bearing the proportion of the costs attributable to the anticipated use as provided at 36 C.F.R. 212.11. The Parties may require reciprocal benefits in providing access across lands of intermingled ownership.

Patent Number 46-91-0034

9111050390

VOL 484 PAGE 573

911210010

BK 0723PG 1044

OR 46909(W)

EXHIBIT "A" - Page 5 of 5

BOOK PAGE

126 656
BOOK 127 PAGE 146

VOL III PAGE 1267

C. Public Use - The public may have free use of any road for which the United States shares in the costs of construction or maintenance, provided that Weyerhaeuser will not be required to perform maintenance required as a result of use by the general public. The Forest Service may restrict public use for safety or resource protection purposes.

D. Use of Existing Roads - The use of any road or segment thereof may be conditioned upon the payment to the United States of the proportionate share of the cost and bearing of proportionate maintenance as determined by the Forest Service to be attributable to the mineral owner's or hauler's use. All use shall be subject to the traffic rules imposed on other users of the road.

E. Cost Share Agreements - The parties agree that the Forest Roads and Trails Act of 1964 shall be authority for rights-of-way in cost share areas. The parties further agree that in the event there is a cost share agreement now or hereafter in effect, such agreement may be mutual agreement of the Parties supersede provisions of Part IV-B, C & D above.

V. Indemnification - The owner and operators of the subsurface rights shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs, the United States shall suffer as the result of the owner's or operator's use or occupancy of the land or interests in land.

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REQUEST OF *Weyerhaeuser Co.*

VOL III PAGE 1260

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DARLENE COWLITZ
OWNER
EDITORBY *St. John* Dep. Asst. P.W.Patent Number 46-91-0034

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VOL. 48 PAGE 574