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BOOK 226 PAGE 356

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SKAMANIA COUNTY WASH
BY *Bill Montecucco*

JUL 11 11 19 AM '02

P. Lawry
J. MICHAEL GARVISON

REAL ESTATE EXCISE TAX

When recorded return to: *22356*
Bill Montecucco, Attorney at Law, P.S. JUL 10 2002
405 W. 13th Street, Vancouver, WA 98662 *exempt*
(360) 735-8555 fax: (360) 693-5783 *Vicki Clelland, Deputy*

SKAMANIA COUNTY TREASURER

Grantor: DENNIS BROWN and JUANITA BROWN, husband and wife; TODD MENSENDICK and CYNTHIA MENSENDICK, husband and wife; MALCOLM MORENO and RUTH MORENO, husband and wife *1-5-5- point of*
Gary H. Martin, Skamania County Assessor

Grantee: LUELLA PATTON Date *7/2/02* Parcel # _____

Description: Lots 1, 2, and 3 of Moreno Short Plat, recorded in Book 3 of Short Plats, Page 304, Skamania County Records, and described in attached Exhibit "A"

Tax Parcel #s: *ptn of* 01-05-05-0-0-1001-00; *ptn of* 01-05-05-0-0-1002-00; 01-05-05-0-0-1003-00 *ptn of*

DECREE DIVESTING TITLE OF GRANTOR AND VESTING TITLE IN
GRANTEE - JUDGMENT NUMBER 02-9-00069-7 OF THE SUPERIOR
COURT OF SKAMANIA COUNTY, STATE OF WASHINGTON

7

BOOK 226 PAGE 357

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SKAMANIA COUNTY
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JUN 11 2002

Lorena E. Hollis, Clerk

COPY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA

LUELLA PATTON, individually,

Plaintiff,

v.

DENNIS BROWN and JUANITA
BROWN, husband and wife, and
their marital community; TODD
MENSENDICK and CYNTHIA
MENSENDICK, husband and wife,
and their marital community; and
MALCOLM MORENO and RUTH
MORENO, husband and wife, and
their marital community;

Defendants

MALCOLM MORENO and RUTH
MORENO, husband and wife,

Third-Party Plaintiffs,

v.

JOE ZUMSTEIN, JR. and CHERIL
ZUMSTEIN, husband and wife,

Third-Party Defendants

Case No. 00-2-00083-1

02-9-00069-7

DECREE DIVESTING TITLE
TO REAL PROPERTY
FROM DEFENDANTS AND
THIRD PARTY DEFENDANTS
AND VESTING TITLE TO
REAL PROPERTY IN PLAINTIFF

THIS MATTER having come on for trial before the Honorable E. Thompson

DECREE
(Patton/P14)

1

Bill Montecucco, Attorney at Law, P.S.
405 W 13th Street
Vancouver, WA 98660
Telephone: (360) 735-8555
Fax (360) 693-5783

Reynolds, sitting without a jury, on the 29th and 30th days of January, 2002, and the Plaintiff, Luella Patton (Patton) being present in person and represented by her attorney, Bill Montecucco; and Defendants, Dennis Brown and Juanita Brown (Brown), Todd Mensendick and Cynthia Mensendick (Mensendick), and Defendants and Third-Party Plaintiffs Malcolm and Ruth Moreno (Moreno) all being present in person and represented by their attorney, Thomas Martin, Jr.; and Third-Party Defendant Joe Zumstein, Jr. (Zumstein) being present and represented by his attorney, Thomas J. Foley, and Cheryl Zumstein being represented by her attorney, Thomas J. Foley; the court having listened to the testimony of the witnesses, reviewed the records and files herein and evidence having been admitted, and the court having been fully advised in the premises, such relief as prayed for in the Complaint and the Court having made its Findings of Fact and Conclusions of Law, NOW, THEREFORE,

IT IS ORDERED, ADJUDGED AND DECREED that judgment be entered for Plaintiff, Luella Patton, and against defendants and third party defendants herein, and

1) All Defendants' and Third Party Defendants' right title and interest in real property described in the attached Exhibit "2", Exhibit "18" and Exhibit "30" (The Premises) is hereby divested from Defendants and Third Party Defendants herein, and is hereby vested in Plaintiff herein;

2) Title to The Premises is quieted in the name of Plaintiff herein;

3) Plaintiff is hereby entitled to immediate actual possession of The Premises;

4) Defendants and Third Party Defendants shall immediately vacate The Premises and remove all property from the premises;

5) Plaintiff is awarded statutory costs in the amount of One Hundred Twenty Five

DECREE
(Patton/P14)

and NO/100 Dollars (\$125.00).

DATED this 11th day of June, 2002.

/s/ E. THOMPSON REYNOLDS
THE HONORABLE E. THOMPSON REYNOLDS

Presented by:

Bill Montecucco
BILL MONTECUCCO, WSBA #25852
Attorney for Plaintiff

Copy received and form approved this
7 day of May, 2002.

Copy received and form approved this
16th day of May, 2002.

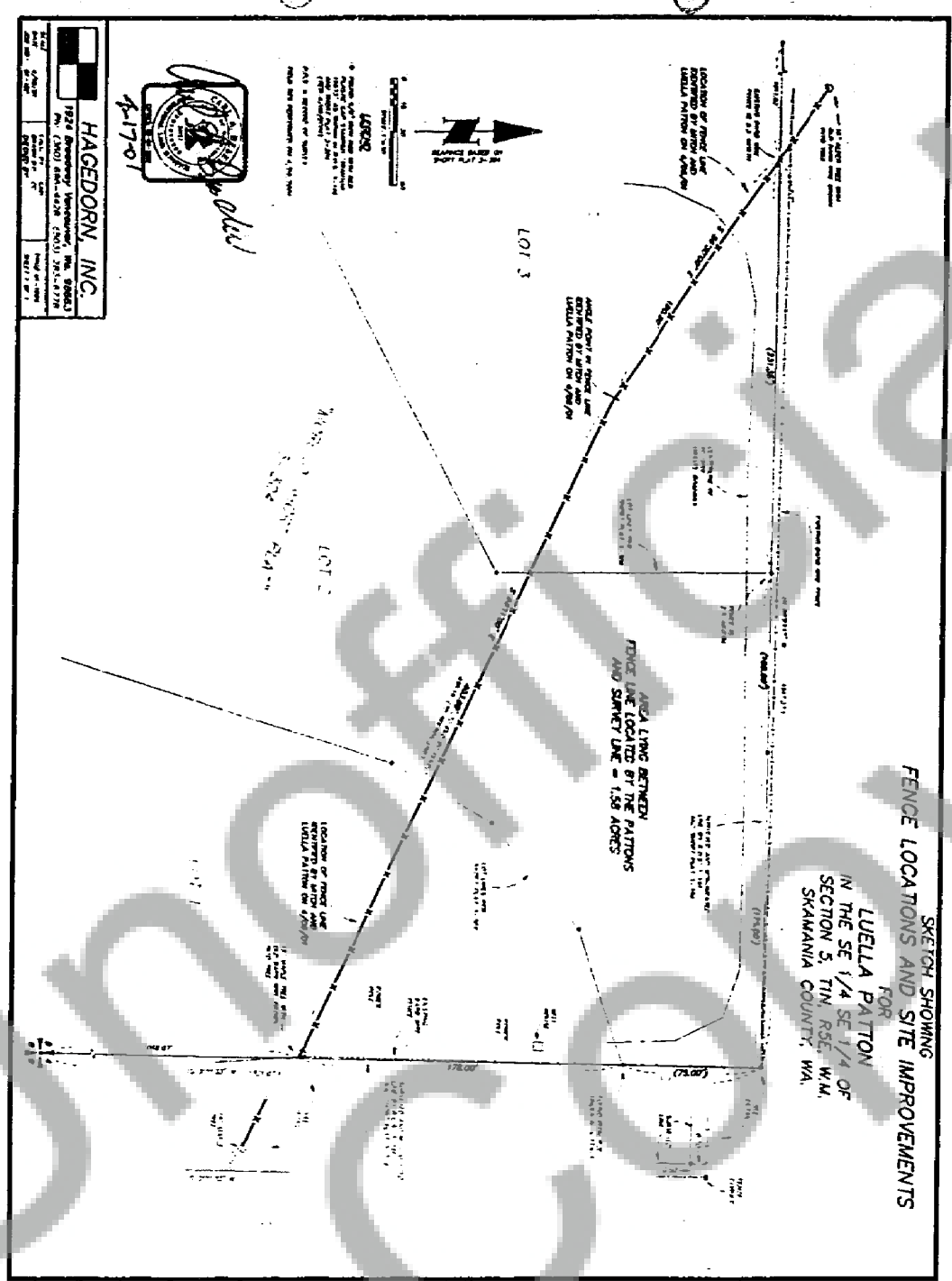
Thomas Martin Jr.
Thomas Martin, Jr., Attorney for
Defendants Moreno
WSBA # 14804

Thomas J. Foley
Thomas J. Foley, Attorney for
Defendants Zumstein
WSBA # 17054

Copy received and form approved this
16th day of May, 2002.

Denise Lukins
Denise Lukins, Attorney for
Defendants Brown and Mensendick
WSBA # 24688

DECREE
(Pastor/P14)



SKETCH SHOWING
ROAD ENCROACHMENT
OF LOT 1 OF
MORENO S.P. 3-304
INTO PATTON PROPERTY
IN THE SE 1/4 SE 1/4 OF
SECTION 5, T1N, R5E, W.M.
SKAMANIA COUNTY, WA.

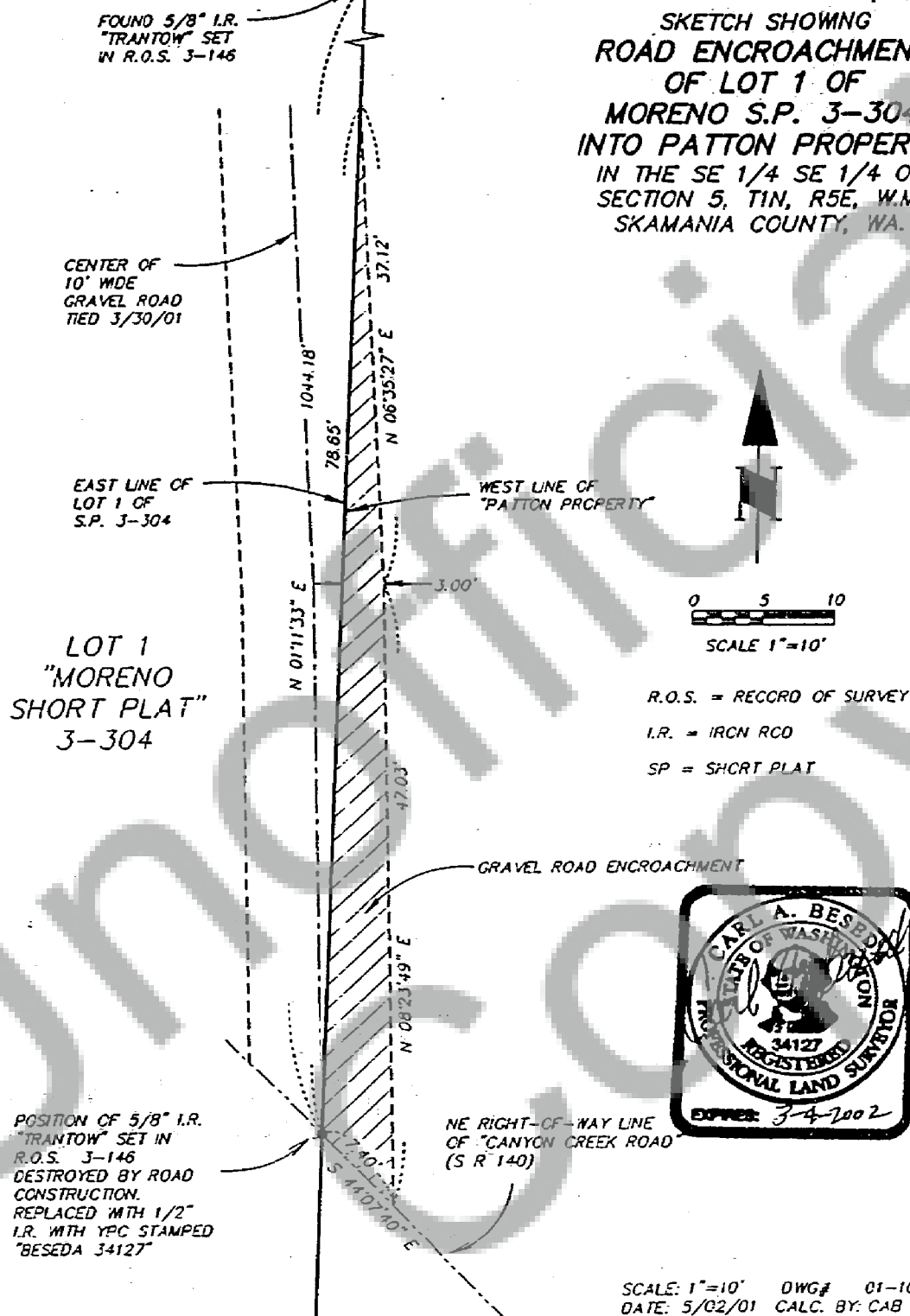


EXHIBIT 19



A portion of the Southeast quarter of the Southeast quarter of Section 5, Township 1 North, Range 5 East, Willamette Meridian, Skamania County, Washington, described as follows:

BEGINNING at a 5/8 inch iron rod marking the Northeast corner of the Southeast quarter of the Southeast quarter of Section 5, as shown in Book 3 of Short Plats, page 304, Skamania County Auditor's Records; thence South $01^{\circ} 11' 33''$ West, along the East line of said Southeast quarter (Short Plat 3-304) for a distance of 253.00 feet; thence North $65^{\circ} 11' 00''$ West, for a distance of 405.15 feet; thence North $56^{\circ} 30' 00''$ West, for a distance of 160.00 feet to the North line of said Southeast quarter of Section 5 (Short Plat 3-304); thence South $89^{\circ} 23' 17''$ East, for a distance of 1517.37 feet to the POINT OF BEGINNING.



EXHIBIT • 20 •

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA

LUELLA PATTON, individually,

Plaintiff,

v.

Case No. 00-2-00083-1

DENNIS BROWN and JUANITA
BROWN, husband and wife, and
their marital community; TODD
MENSENDICK and CYNTHIA
MENSENDICK, husband and wife,
and their marital community; and
MALCOLM MORENO and RUTH
MORENO, husband and wife, and
their marital community;

Defendants

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

MALCOLM MORENO and RUTH
MORENO, husband and wife,

Third-Party Plaintiffs,

v.

JOE ZUMSTEIN, JR. and CHERIL
ZUMSTEIN, husband and wife,

Third-Party Defendants

FINDINGS OF FACT AND
CONCLUSIONS OF LAW
(Patton/P13)

Bill Montecucco, Attorney at Law, P.S.
405 W 13th Street
Vancouver, WA 98660
Telephone: (360) 735-8555
Fax (360) 693-5783

THIS MATTER having come on for trial before the Honorable E. Thompson Reynolds, sitting without a jury, on the 29th and 30th days of January, 2002, and the Plaintiff, Luella Patton (Patton) being present in person and represented by her attorney, Bill Montecucco; and Defendants, Dennis Brown and Juanita Brown (Brown), Todd Mensendick and Cynthia Mensendick (Mensendick), and Defendants and Third-Party Plaintiffs Malcolm and Ruth Moreno (Moreno) all being present in person and represented by their attorney, Thomas Martin, Jr.; and Third-Party Defendant Joe Zumstein, Jr. (Zumstein) being present and represented by his attorney, Thomas J. Foley, and Cheryl Zumstein being represented by her attorney, Thomas J. Foley; the court having listened to the testimony of the witnesses, reviewed the records and files herein and evidence having been admitted, and the court having been fully advised in the premises, the court does now, therefore, enter the following:

FINDINGS OF FACT

The court finds according to the evidence most credible that:

1. Patton and her husband purchased real property located within Skamania County, Washington, by real estate contract in 1956 and took possession at that time.

2. The recorded legal description of the real property titled to Patton when the real estate contract was paid off in 1960 was accurately set forth by deed in Plaintiff's trial Exhibit "1" as:

The Southwest quarter of the Northwest quarter and the Northwest quarter of the Southwest quarter, and the South half of the Southwest quarter, all in Section 4, Township 1, North Range 5, East of the Willamette Meridian.

ALSO:

The Northeast quarter of the Southeast quarter of Section 5, Township 1 North, Range 5, East of the Willamette Meridian; with the appurtenances together with any water rights attaching to or going along with said property.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**
(Patton/P13)

3. There currently exists a logging road which encroaches on property titled to Patton and belonging to Patton. The encroachment is accurately depicted by Plaintiff's attached Exhibit "18". Defendants and Third-Party Defendants concede that Patton is entitled to exclusive possession of said area of encroachment.

4. The disputed area (disputed area) is a roughly triangular shaped area and is accurately depicted by Plaintiff's attached Exhibit "2" and accurately described in Plaintiff's attached Exhibit "30".

5. When Patton purchased her property in 1956, there was a fence line (fence line) running along the line of the bluff bordering the disputed area.

6. The fence line remained until some time in early 1994.

7. The fence line connected into Patton's other boundary lines.

8. Patton remained in possession of her entire parcel and was in possession of the disputed area up to the fence line from 1956 until 1994.

9. On the disputed area, Patton regularly raised cattle; grazed cattle; harvested hay; cut firewood; the cattle used the disputed portion for shade to get out of the heat of the day; and the cattle used the disputed portion of the property to have their calves, and Patton kept the fence line maintained from 1956 until 1994.

10. The purpose of the fence was to keep the cattle on the Plaintiff's property.

11. Patton's use of the disputed area was such as a true owner would exhibit under the circumstances and given the nature of the real property from 1956 until 1994.

12. In 1956, if there were any trees along the fence line in the disputed area, they

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**
(Patton/P13)

were very small.

13. The fence line and Patton's use of the disputed area would have been readily known and would have been able to have been seen by the owner of the title to the property from 1956 through and including at least 1966.

14. Zumstein obtained a survey on or about April 8, 1994.

15. Jim Hoffman, a neighboring property owner, was leasing the pastures, including the disputed area, from Patton in 1994 for haying and grazing cattle.

16. After the fence line was removed in 1994, a temporary fence (temporary fence) was erected by Jim Hoffman and Lee Scheel, in the same location as the fence line.

17. Jim Hoffman observed that a roadway was being built up to the disputed area after placement of the temporary fence, and observed that the location of the roadway would cross the temporary fence.

18. Jim Hoffman and Lee Scheel, and with the agreement of Patton, placed a fence generally along the survey line (survey fence).

19. Placement of the fence generally along the survey line was done, not in recognition of the survey line as a boundary by Ms. Patton, but was done to make sure that the fence would stay up so that the cattle would at least not go down over the hillside.

20. Plaintiff's trial Exhibit "2" accurately depicts the location of the survey fence as compared to the survey line.

CONCLUSIONS OF LAW

1. Jurisdiction and venue are properly before this court because claims involve

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**
(Patton/P13)

quieting title to real property located within Skamania County.

2. Plaintiff has timely moved for judgment as a matter of law regarding logging road encroachment depicted by Plaintiff's trial Exhibit "18".

3. Plaintiff is entitled to judgment in Plaintiff's favor as a matter of law regarding logging road encroachment depicted by Plaintiff's attached Exhibit "18". Title to said area of encroachment is quieted in the name of Plaintiff herein. Plaintiff is entitled to immediate actual possession of such real property.

4. Patton's use of the disputed area was open and notorious from 1956 until 1994.

5. Patton's use of the disputed portion of the property was uninterrupted from 1956 until 1994.

6. Patton's use of the disputed portion of the property was exclusive from 1956 until 1994.

7. Patton continued to satisfy each of the requirements for obtaining title through adverse possession from 1956 until 1994.

8. Patton has proven by competent evidence that she obtained title through adverse possession in 1966.

9. The defense of estoppel has not been proven in this case by clear, cogent and convincing evidence.

10. RCW 7.28.085 does not apply to any adverse claim where title was acquired prior to June 11, 1998 under the laws then in effect. RCW 7.28.085 does not apply here because title to the disputed property was acquired by Patton in 1966, well before June 11, 1998.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW**
(Patton/P13)

11. Plaintiff is entitled to immediate actual possession of the disputed area, as defined by Plaintiff's attached Exhibits "2" and "30".

12. Title to the disputed area is quieted in the name of Plaintiff herein. Plaintiff is entitled to immediate actual possession of the disputed area.

13. Plaintiff is entitled to statutory costs in the amount of \$125.00.

DATED this 11th day of June, 2002.

/s/ E. THOMPSON REYNOLDS


THE HONORABLE E. THOMPSON REYNOLDS

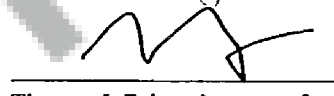
Presented by:


BILL MONTECUCCO, WSBA #25852
Attorney for Plaintiff


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WSBA # 24688

FINDINGS OF FACT AND
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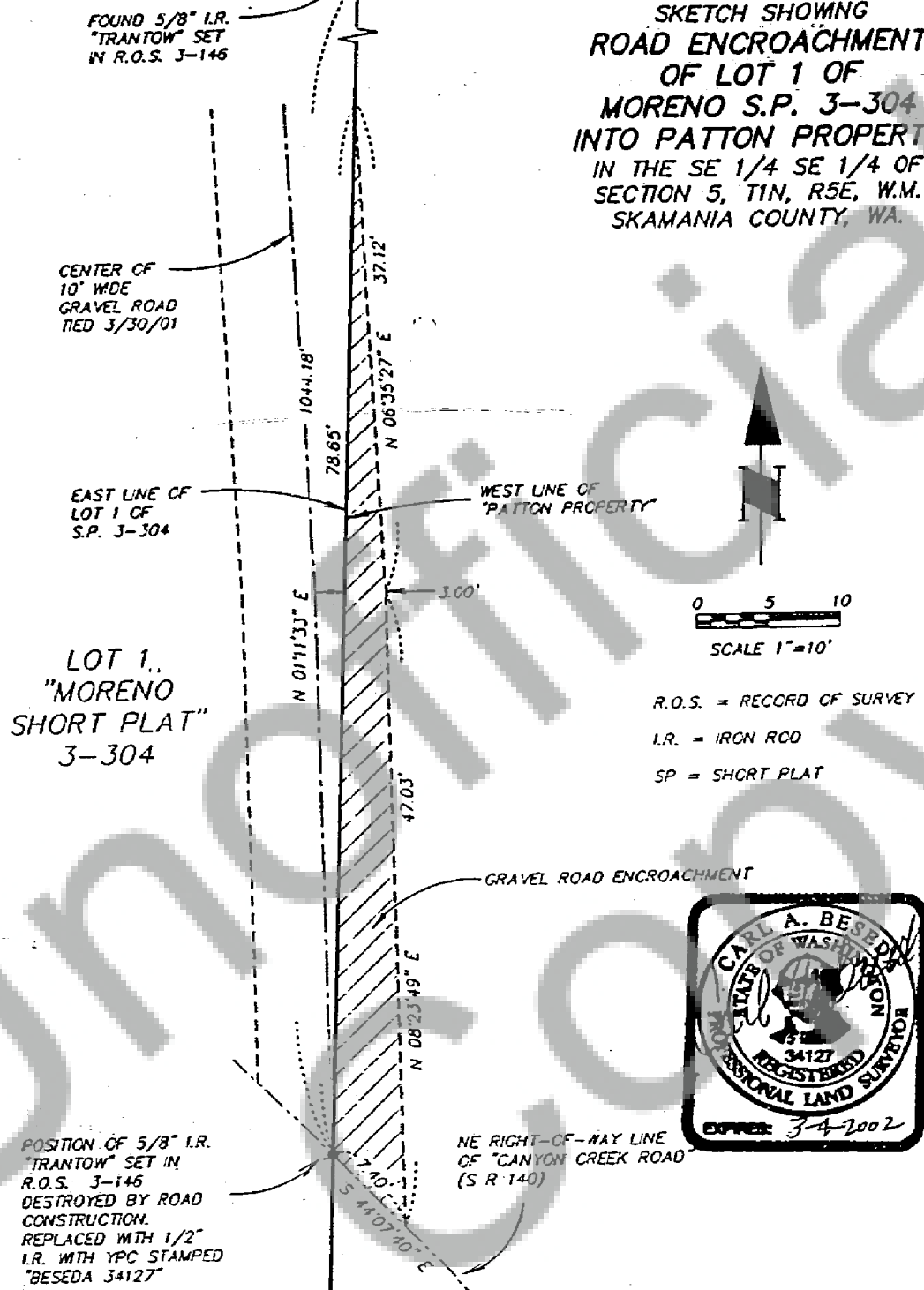


EXHIBIT 19

BOOK 226 PAGE 371

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