

FILED FOR RECORD AT THE REQUEST OF:
Weyerhaeuser Columbia Timberlands LLC
220 Occidental Avenue South
Seattle, WA 98104
Attn: Tricia Leonard
File No: 560-5.17-0200

**SKAMANIA COUNTY
REAL ESTATE EXCISE TAX**

N/A
MAR 15 2017

PAID *N/A*
ca deputy
SKAMANIA COUNTY TREASURER

COUNTY AUDITOR/RECORDER'S INDEXING FORM

DOCUMENT TITLE(S): 1. EASEMENT AGREEMENT
REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED: N/A Additional reference numbers are on page <u>N/A</u> of document.
GRANTOR(S): 1. Steven E. Epling, a married man as his separate estate, Additional names on page <u>N/A</u> of document.
GRANTEE(S): 1. WEYERHAEUSER COLUMBIA TIMBERLANDS LLC, A DELAWARE LIMITED LIABILITY COMPANY Additional names on page <u>N/A</u> of document.
LEGAL DESCRIPTION: (abbreviated e.g. lot, block, plat, section, township, and range) SE1/4 and S1/2NE1/4 of Section 1, Township 2 North, Range 5 East, Willamette Meridian, Skamania County Full legal description is on pages 2 of document. <i>G.S.</i>
ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER(S) 02-05-00-0-0-0100-00
The Auditor/Recorder will rely on information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement"), dated this 15th day of March, 2017, is by and between Steven E. Epling, a married man as his separate property, hereinafter called "Grantor," and WEYERHAEUSER COLUMBIA TIMBERLANDS LLC, a Delaware limited liability company, and its successors, assigns, heirs and personal representatives, hereinafter collectively called "Grantee." Grantor's and Grantee's addresses are set forth in Section 23 herein.

Grantor, for and in consideration of \$1.00 and other valuable consideration received by Grantor, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to Grantee, subject to all of the terms and conditions described herein, a permanent non-exclusive easement and right-of-way for the use, maintenance and improvement of an existing road (hereinafter, the "Road") over, under, upon, along, and across the following described lands in the County of Skamania, State of Washington (the "Servient Estate"):

A strip of land sixty (60) feet in width thirty (30) feet on each side of the centerline, commonly known as W2000 Road, with such additional widths as may be necessary for needed cuts and fills over and across a portion of

the property legally described as follows and in the location approximately as shown on **Exhibit "A"** attached hereto and incorporated herein by this reference:

Township 2 North, Range 5 East, Willamette Meridian, Skamania County:

Section 1: A parcel of land located within the SE1/4 and SE1/4NE1/4:

The easement and right-of-way described above is hereinafter referred to as the "Easement."

The above grant and conveyance is subject to all matters of public record as of the date of recording of this Agreement.

Grantor and Grantee agree that the rights granted herein shall be subject to the following terms, provisions, and conditions applicable to Grantor, Grantee and their respective successors, assigns, heirs, and personal representatives:

1. Purpose.

(a) This Easement is granted for the purpose of using, maintaining and improving the Road for ingress and egress to Grantee's property for all lawful residential, commercial, industrial, agricultural and silvicultural uses and developments. Grantee's property is more particularly described as the NE1/4 less a portion of the SE1/4NE1/4, W1/2, a portion of the NW1/4SE1/4 and a portion of the SW1/4SE1/4 of Section 1, Township 2 North, Range 5 East (the "Dominant Estate") as shown on **Exhibit "A"**.

2. Relocation. Grantor reserves unto itself and its successors and assigns the right at its expense to relocate the Easement and the Road subject to the condition that, except for distance and curvature, such relocated Easement and Road provides the same type and quality of access as existed prior to such relocation and does not change the point of interconnection on the boundaries of the Servient and Dominant Estates without the prior consent of the owner of the Dominant Estate, which consent shall not be unreasonably withheld or delayed. If the location of the Road is changed, Grantor and Grantee shall place of public record an amendment to this Agreement to reflect such relocation.

3. Reserved Rights. Grantor, for itself and its successors and assigns, reserves the right at all times and for any purpose to go upon, cross and recross, at any place on grade or otherwise, the Easement and to use the Road in any manner and for any purpose that will not unreasonably interfere with the rights granted hereunder.

4. Third Parties. The Easement granted herein is non-exclusive, and Grantor may, in its sole discretion, grant to third parties the right to utilize the Easement or Road for any purpose or purposes reserved to Grantor upon such terms as it chooses; provided, that use by such third party shall be subject to the terms and conditions of this Easement and shall not unreasonably interfere with the rights granted hereunder. Nothing herein contained shall be deemed a gift or

dedication of any portion of the Easement or Road to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no rights, privileges or immunities hereunder shall inure to the benefit of any third-party, nor shall any third-party be deemed to be a beneficiary of any of the provisions contained herein.

5. Maintenance, Improvement.

5.1 Maintenance.

(a) For purposes of this Agreement, "maintenance" is defined as the work normally necessary to preserve and keep the Road and appurtenant Road facilities (such as bridges, culverts, gates, ditches and brushing) as nearly as possible in their present condition or as hereafter improved, and shall include repairs, reconstruction, and resurfacing (except for repairs, reconstruction or resurfacing described in Paragraph 5.2 hereof) and noxious weed control. The cost of maintenance shall be allocated on the basis of respective uses of the Road. When any party uses the Road, or a portion thereof, that party shall perform or cause to be performed, or contribute or cause to be contributed, that share of the maintenance occasioned by such use as hereinafter provided. During periods when the Road, or a portion thereof, is being used solely by one party, such party shall maintain that portion of the Road so used to the standards existing at the time use is commenced, and shall follow all applicable laws, rules and regulations and Best Management Practices of the State of Washington available from the Washington Department of Natural Resources, Forest Practices Division, as the same may be amended from time to time (hereinafter, "BMPs") and the Sustainable Forestry Initiative 2015-2019 Standard (or any successor standard then in effect) as set forth by SFI, Inc. (hereinafter, "SFIs").

(b) During periods when more than one party is using the Road, or a portion thereof, each party's share of maintenance shall be pro rata in proportion to its intensity of use thereof. If necessary, and at the request of either party, the parties hereto shall meet and establish necessary maintenance provisions. Such provisions shall include, but shall not be limited to:

(i) The appointment of a maintainer, which may be one of the parties hereto or any third party, who will perform or cause to be performed, at a reasonable and agreed upon rate, the maintenance of the Road or the portion thereof being used; and

(ii) A method of payment by which each party using the Road or a portion thereof shall pay its pro rata share of the cost incurred by said maintainer in maintaining, the Road or portion thereof.

5.2 Improvement. For the purposes of this Agreement, "improvement" is defined as the work necessary to surface, resurface, widen, recondition or replace the Road and appurtenant Road facilities (such as bridges, culverts, gates, ditches and brushing) to a higher or greater standard than that prevailing on the date of this Agreement. Any improvement shall be at the sole cost and expense of the improving party. When any existing or planned use of lands accessed by the Road described herein will result in use of the Road in excess of its current design elements, design standards, and/or road maintenance standards, the party responsible for such

existing or planned use shall likewise be responsible for any additional costs that are necessary to meet design elements, design standards, and/or road maintenance standards that can accommodate such existing or planned use (as well as other existing uses).

5.3 Notification. Grantee shall provide to Grantor written notification not less than ten (10) business days prior to commencing any maintenance or improvement activities within the Easement. Written notification shall include the following:

- (a) The constructing party's name, address and phone number;
- (b) A legal description and map showing the location of proposed activities;
- (c) Name, company name, address and phone number of individual and/or company performing maintenance or improvement activities; and
- (d) Description of the scope of any such maintenance or improvement activities.

Grantee shall also provide to Grantor written notification within five (5) business days of completion of any maintenance or improvement activities.

6. Structures and Gates. Grantee may not construct any structures, including, without limitation, gates or fences, along or across the Easement without the prior written permission of Grantor, which permission shall not be unreasonably withheld. Both parties acknowledge and agree that Grantor may control the access granted hereunder by a locked gate and such other measures reasonably necessary to prevent unauthorized vehicle access. The party constructing any locked gate shall ensure that the other party has a key or access code to the gate. Both parties agree that such gate will be closed and locked at all times except when authorized use of the Road by Grantor, Grantee or their respective permittees requires that it be open. The party constructing any locked gate shall ensure that the other party has a key or access code to the gate. The parties hereto shall use their reasonable efforts to prevent unauthorized vehicle traffic behind such gate.

7. Road Users' Association. Grantor acknowledges and agrees, for itself and its successors, assigns, heirs and personal representatives, that the Easement and Road may be utilized now or in the future by additional persons. In such event, Grantee shall have the right, but not the obligation, to form or become a member of a non-profit road users' association or homeowners' association pursuant to the Washington Nonprofit Corporation Act and, if Grantor is also using the Road, to require Grantor to become a member of the association. If an association is formed, the remaining provisions of this Section 7 shall apply: The association shall be responsible for the Grantee's share of maintenance and improvement obligations arising under this Agreement. Grantee shall be responsible for the payment of dues and other charges under the association's governing documents. The president of the association shall be the sole point of contact with respect to the Grantee's obligations under this Agreement and the association shall inform the Grantor whenever the president's name and/or address have changed. Notice to the association by the Grantor as may be required or allowed under this Agreement shall be deemed sufficient when addressed to the last name and address of the president provided to the Grantor by the association. Grantee will provide periodic updates at least once per year to the Grantor on all Road maintenance, repair, and improvement activities undertaken by the association.

8. Road Damage. Each party using any portion of the Road shall repair or cause to be repaired at its sole cost and expense that damage to the Road occasioned by it which is in excess of that which it would cause through normal and prudent usage of the Road. Should inordinate damage to the Road occur which is not caused by an authorized user of the Road, the parties hereto shall meet to agree on the cost and method of replacement or repair, and the shares of repair or replacement cost to be borne by each user of the Road.

9. Damages. Grantee shall pay for all damages, including but not limited to timber, crops and grazing lands located within the Easement or adjacent thereto arising out of Grantee's use or maintenance of this Easement.

10. Condition and Use of Easement. Grantor makes no warranties as to the current state of the Easement or the Road, or likely future condition of the Easement or Road. Grantee acknowledges that the Road will be used for a wide range of activities, including but not limited to, the use of heavy vehicles and for logging activities. All parties using the Easement or Road do so at their own risk, and nothing in this Agreement shall be construed to impose any liability for injuries to persons or property against Grantor by reason of neglect or failure to maintain the Easement or the Road located thereon. Grantee shall comply with all governmental laws, ordinances, rules and regulations, BMPs and SFIs applicable to the construction, reconstruction, maintenance, repair, improvement, or use of the Easement.

11. Right-of-Way Timber. Grantor reserves to itself and its successor and assigns all timber now on or hereafter growing within the Easement, which Grantor may harvest and remove at any time. Upon prior written notice to Grantor, Grantee shall have the right to cut timber within the Easement to the extent necessary for maintaining or improving the Road. Timber so cut shall, unless otherwise agreed to, be cut into logs of lengths specified by Grantor and decked along the Road for disposal or removal by Grantor.

12. Personal Insurance. All persons using the Easement for any purpose shall obtain and maintain a policy of Automobile Liability Insurance in a form generally acceptable in the State of Montana and customary in the area of the Easement.

13. Non-Residential Use of Easement. In the event Grantee uses the Road (including construction, reconstruction or maintenance) for commercial purposes or the Dominant Estate for non-residential use, the following commercial insurance requirements shall apply.

i. Commercial General Liability Insurance to include minimum limits of \$1,000,000 per occurrence and \$1,000,000 annual aggregate Combined Single Limit Bodily Injury, Death and Property Damage. Extension of coverage to include Comprehensive Form, Premises and Operations, Contractual Liability, Products and Completed Operations, Independent Contractors, Personal Injury, Broad Form Property Damage, Cross Liability, and Pollution arising out of heat, smoke or fumes from a Hostile Fire. Additionally, the policy shall not exclude X, C or U (Explosion, Collapse, or Underground).

ii. Comprehensive Automobile Liability insurance covering owned, non-owned, hired and other vehicles, with a combined single limit of \$1,000,000 per occurrence Combined Single Limit Bodily Injury, Death and Property Damage.

iii. The policies specified above shall include an endorsement which shall name Grantor as additional insureds on a primary basis for the term of the temporary commercial use. The additional insured endorsement must be ISO CG20 10 11 85 (or other form with like wording).

iv. The policies specified above shall include an endorsement which shall provide that Grantor, at the address in Section 23 herein, will be given a 30 - day written notice prior to cancellation, coverage modification or other material change in the policy. No such cancellation, modification or change shall affect Grantee's obligation to maintain the insurance coverages required by this Agreement.

v. All liability coverages must be on an "occurrence" basis as opposed to "claims made."

vi. All such insurance shall be in a form and company acceptable to Grantor sufficient to protect Grantee, its contractors and their subcontractors, to the extent that they are involved in the work, and Grantor against the claims of third persons, and to cover claims by Grantor against Grantee, its contractor and their subcontractors for which Grantee has assumed liability under this Agreement.

vii. If requested by Grantor, Grantee shall furnish to Grantor a certificate of insurance dated and signed by a stated, authorized agent for the insuring company or companies, in a form acceptable to Grantor and containing a representation that coverage of the types listed herein is provided with the required liability limits and the stated endorsements. Grantor reserves the right to require a certified copy of the policy(ies) or to examine the actual policy(ies). Said certificate(s) of insurance shall be issued to Grantor at the address in Section 23 herein.

viii. If Grantee retains the services of any contractor, Grantee shall cause each contractor to maintain insurance coverages and limits of liability of the same type and the same amount as are required of Grantee under this Agreement. Grantee shall obtain, prior to the commencement of the contractor's services, the required certificates of insurance and additional insured endorsements, if requested by Grantor.

ix. Grantee may self-insure any of the insurance requirements described above with the prior consent of Grantor, which consent shall not be unreasonably withheld.

14. Indemnification. Grantee shall assume all risk of, and indemnify and hold harmless, and at its expense defend Grantor from and against any claims, loss, cost, legal actions, liability or expense on account of personal injury to or death of any persons whatsoever, including but not limited to Grantor and its employees, agents, or contractors, or damage to or destruction of property to whomsoever belonging, including but not limited to property of Grantor and its employees,

agents or contractors, or any fire, resulting partly or wholly, directly or indirectly from Grantee's exercise of the rights herein granted; provided, however, that Grantee's undertaking herein contained shall not be construed as covering personal injury to or death of persons, or damage to or destruction of property resulting from the sole or contributory negligence of Grantor.

15. Liens. Grantee shall keep the Easement and the Servient Estate free from liens arising in any manner out of the activities of Grantee and shall promptly discharge any such liens that are asserted.

16. Taxes. Grantee shall pay all taxes and/or assessments that may become chargeable against this easement, if separately assessed by statute.

17. Termination. If Grantee determines that the Easement, or any portion thereof, is no longer needed, this Agreement shall terminate. Any termination under this paragraph shall be evidenced by a statement in recordable form furnished by Grantee to Grantor or its successor(s) or assign(s) in interest. Grantor may terminate this Agreement for uncured breach as hereinafter described. Grantor shall have the right to dedicate all or any portion of the Road to the state, county or municipality as a public road, in which event the Easement on the portion so dedicated shall terminate.

18. Default. Failure of Grantee to perform any of its obligations hereunder shall constitute a default. Upon default, Grantor shall notify Grantee in writing, describing the nature of such default and the action necessary to cure the default. Grantee shall have thirty (30) days following its receipt of a notice to cure the default, unless it appears that Grantee has commenced to cure the default in good faith and has diligently continued to pursue such curing, but has been unable to complete the same within said 30-day time period due to the nature of the default or other causes beyond the control of Grantee, in which case the time period shall be extended accordingly; provided, however, that no extension shall be afforded for a default in the payment of a monetary obligation. In the event Grantee fails to cure the breached obligation during the prescribed cure period, as the same may be extended, Grantor shall be entitled to exercise all rights and remedies available to it at law or equity, including but not limited to specific performance pursuant to the terms of this Agreement without the necessity of posting a bond, or termination of this Agreement and the Easement. In the event of a monetary default that has not been cured within the cure period, in addition to any other remedies available at law or in equity, Grantor shall have the right to a lien against the Dominant Estate which may be filed with the county recorder and foreclosed in the manner set forth in RCW Ch. 61.12 or any successor statute.

19. Rights and Obligations. The rights and obligations hereunder shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. The Easement is an easement appurtenant to the Dominant Estate and may not be transferred separately from, or severed from, title to the Dominant Estate. Furthermore, the benefits of the Easement shall not be extended to any properties other than the Dominant Estate without the consent of the owners of the fee simple interest of the Servient Estate.

20. Invalidity. In the event any portion of this Agreement should be held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such holding shall not affect the

remaining provisions hereof unless the court's ruling includes a determination that the principal purpose and intent of this Agreement is thereby defeated.

21. Costs and Attorneys' Fees. If any party hereto is required to retain an attorney to enforce any provision of this Agreement, whether or not an arbitration or legal proceeding is commenced, the substantially prevailing party or parties shall be entitled to recover from the other reasonable attorneys' fees and other costs incurred, regardless of whether at trial, on appeal, in any bankruptcy proceeding, in an arbitration or without resort to suit. Attorneys' fees covered by this paragraph include, without limitation, fees incurred without resort to suit, at trial, in an arbitration proceeding, in bankruptcy proceedings to modify or vacate any automatic stay of such legal action or proceeding, in appeals, and in post-judgment collection services. Costs covered by this paragraph include, without limitation, the costs of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, appraisal fees, and title insurance premiums.

22. Governing Law. This Agreement shall be interpreted, construed and enforced according to the laws of the State of Washington.

23. Notices. Any notice required or permitted to be given hereunder shall be in writing and shall be deemed properly given on a date that is, (i) personally delivered, (ii) overnight courier service, (iii) sent by first class certified or registered mail, return receipt requested, with postage prepaid, or (iv) dispatched by electronic mail (email) transmission (accompanied with reasonable evidence of receipt of transmission and with a confirmation copy sent by overnight courier service no later than the day after transmission) to the parties' addresses set forth below. Either party may change such address for notice. All notices which are so addressed and paid for shall be deemed effective when personally delivered, or, if mailed, on the earlier of receipt or two (2) days after deposit thereof in the U.S. mail; or if sent via email, the date upon which such email was transmitted, provided the sender of such email notice receives confirmation of receipt from the recipient via return email or another acceptable notice method. Notices shall be addressed as follows:

Grantee: WEYERHAEUSER COLUMBIA TIMBERLANDS LLC
220 Occidental Avenue South
Seattle, WA 98104
Attention: Land Use Manager
Email: April.Deal@weyerhaeuser.com

And to: 220 Occidental Avenue South
Seattle, Washington 98104
Attention: Legal Department
Email: Tricia.Leonard@weyerhaeuser.com

Grantor: Steven E. Epling
17610 NE 36th Way
Vancouver, WA 98682
Email: Steveneppling@gmail.com

Upon at least ten (10) days' prior written notice, each party shall have the right to change its address to any other address within the United States of America.


IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES.]

Unofficial
Copy

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

GRANTOR:

By: 
Steven E. Epling


ACKNOWLEDGMENT

STATE OF WA)
) ss
COUNTY OF Clark)

I certify that I know or have satisfactory evidence that Steven E. Epling is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated 3/13/17




Notary Public for the
State of WA
My appointment expires 6/1/19
Printed Name Kari D. Wild

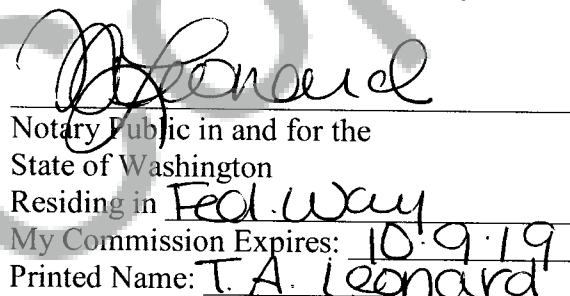
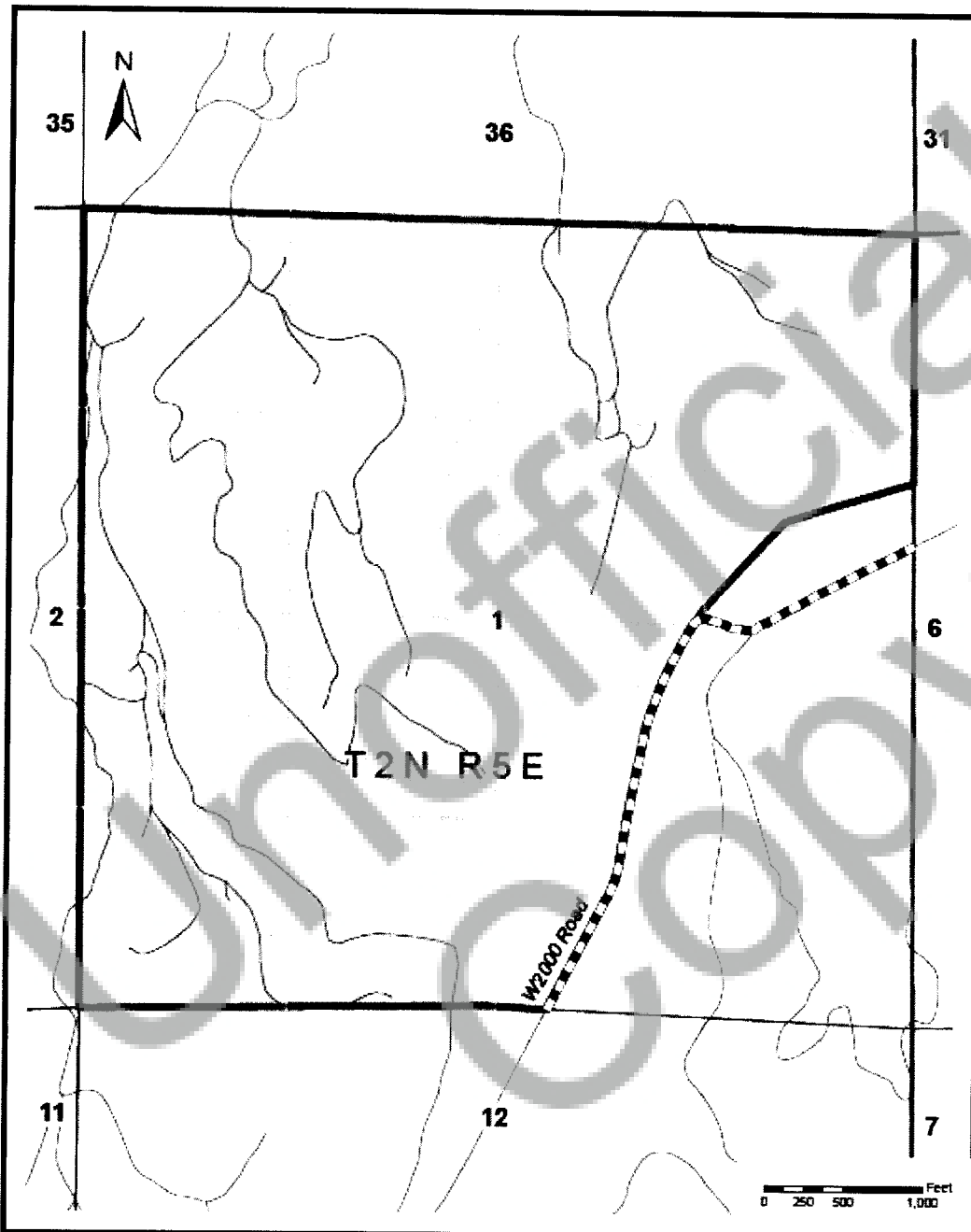


EXHIBIT "A" TO EASEMENT

Easement Grant to WEYERHAEUSER COLUMBIA TIMBERLANDS LLC



— Easement granted to Weyerhaeuser Columbia Timberlands

— Weyerhaeuser Columbia Timberlands Ownership

~ Roads

Exhibit
Skamania County, WA

LT Dept - MayhuttM - 2/13/2017 -Epling_WA_020317_GRW