

**SULTAN CITY COUNCIL
AGENDA COVER SHEET**

ITEM NO: A -7
DATE: August 9, 2007
SUBJECT: Logging Agreement for 2007 Watershed Thinning
CONTACT PERSON: Public Works Director Dunn

ISSUE:

The issue before the City Council is consideration and authorization of the Logging Agreement with Bowman Logging Co. and the Notice of Transfer for Washington State Department of Natural Resources Forest Practices Application/Notification for the 2007 Watershed Thinning.

SUMMARY:

Lusignan Forestry Inc. manages the timber on City of Sultan 360 acre Watershed. Bowman Logging has agreed to the terms from last year's operation and will be thinning Sultan's Watershed. Lusignan Forestry is requesting the Council to authorize the Mayor to sign the attached Logging Agreement and the Department of Natural Resources Notice of Transfer in order for Bowman Logging to start the thinning at the beginning of the allowed season. The 2007 thinning project is to be completed between August 1 and October 15, 2007 upon receiving authorization from the City Council.

BACKGROUND:

The City of Sultan has a contract with Lusignan Forestry, Inc, Shelton, WA to manage the City's Watershed using best forest practices to prevent the spread of disease, to complete clearcut of timber outside the Spring and Lake 16 area (C-3 dark outlined area in center of map) and manage timber growth by thinning hard woods out of replant areas.

Jim Frost, Forester, Lusignan Forestry monitors the timber market providing information to Sultan helping the City to accomplish the highest value for the timber from Sultan Watershed.

FISCAL IMPACT:

2005 Proceeds \$ 1,501.67

2006 Proceeds \$22,046.14

The above proceeds are from a two year – thirty-five acre thinning project. The thinning in 2007 will be of 21 +/- acres.

Estimated value for the 2007 timber sales are \$15,000.00 net profit.

Proceeds from the watershed timber sales are deposited into the Cumulative Reserve for Water Fund Capital Improvement Projects.

ALTERNATIVES:

- 1) Approve the contract with Bowman Logging to complete the 2007 Timber sale with net profit receipted into the Water Capital Improvement Fund.
- 2) Don't do the thinning project this year, which would minimize the City of Sultan ability to maximize the Watershed Timber and benefits to the Water Capital Improvement Fund.

STAFF RECOMMENDATION:

Authorize Mayor Tolson to sign the Logging Agreement for 2007 Watershed Thinning along with the Notice of Transfer from the Department of Natural Resources.

COUNCIL MOTION:

Council moves to authorize the Mayor to sign the Logging Agreement for the 2007 Watershed Thinning project with Bowman Logging, Inc. and the Washington State Department of Natural Resources Notice of Transfer with the proceeds to be receipted into the Water Cumulative Reserve Fund for Capital Improvements in the Sultan Water System.

COUNCIL ACTION:

DATE: August 9, 2007

ATTACHMENTS:

- Attachment A Logging Agreement
- Attachment B Washington State Department of Natural Resources Notice of Transfer
- Attachment C Maps of City of Sultan watershed

RECEIVED
JUL 23 2007

BY:.....



Lusignan Forestry Inc

109 SOUTH 2ND STREET / P.O. Box 1007 • SHELTON, WASHINGTON 98584

PHONE 360-426-1140

FAX 360-426-2741

TIMBER SALES AND HARVESTING
TIMBER INVENTORIES
TIMBER MANAGEMENT PLANS
TIMBER APPRAISALS

July 9, 2007

Sultan City Council
c/o Connie Dunn, Public Works Director
City of Sultan
P O Box 1199
Sultan, WA 98394

RE: Logging Agreement for 2007 Watershed Thinning

Dear Connie and Sultan City Council:

Please find enclosed in triplicate the Logging Agreement between the City and Bowman Logging Co. Inc. for the upcoming 2007 Watershed Thinning. Bowman Logging has agreed to the same terms as last year's operation. Please review, then sign and date all three copies on page four, where indicated, and return all to Lusignan Forestry, Inc., using the enclosed return envelope. We will forward the Agreement to Bowman Logging for their signature. They will then keep one copy for their records, I will forward one copy to you for your records, and LFI will keep one copy on file.

Also enclosed, please find a Department of Natural Resources Notice of Transfer of Approved Forest Practices Application or Notification form. This form transfers the Operator of record on the FPA to Bowman Logging Co Inc., the actual operator.

Please call if you have any questions. Thank you.

Best Wishes,

Terri Frost
Office Manager

enc.

Attachment A1

LOGGING AGREEMENT
EXPORT RESTRICTED TIMBER

THIS AGREEMENT is dated the 5th day of July, 2007, between City of Sultan whose address is P O Box 1199, Sultan, WA 98394 hereinafter called "Owner" and Bowman Logging Co. Inc. whose address is Attn: Dan Bowman, P O Box 1356, Monroe, WA 98272 hereinafter called "Operator".

1. Operator shall have the right from August 1 through October 15, 2007, to enter upon the:

2007 Watershed Thinning Unit: Portion of NW ¼ Section 16,
Township 28 North, Range 8 East, Willamette Meridian, Snohomish
County, Washington

shown on the attached map called "Exhibit A" and hereinafter called "contract area". Said right of entry is for the purpose of logging and cutting all trees designated by "Owner" and removing from said trees any and all merchantable products. Said merchantable material to be delivered to markets as specified by Owner.

THIS TIMBER FROM THIS HARVEST IS PUBLIC TIMBER and therefore EXPORT RESTRICTED. The Operator acknowledges he is aware of this and will abide by all applicable laws and regulations relating to such timber. Furthermore, Operator shall:

- a. Paint with a 2-inch minimum diameter spot of red paint both ends of all logs and hammer brand log ends of all logs 10 inches and greater in diameter.
- b. Complete all special reporting requirements as outlined in WAC 240-15-025, if any. Forms will be supplied by Lusignan Forestry, Inc if applicable.

2. Operator shall enter upon the contract area and cut and remove therefrom, within the time specified above and in conformity with the best logging practices, all products described above; shall use every reasonable effort to avoid breakage and damage to residual trees, and upon completion of logging, or prior to termination of this agreement, shall promptly remove all logging equipment from the contract area. In addition, operator shall:

- a. Perform Cat (bulldozer) time at the direction of the landowner or his representative at the rate of \$60.00 per hour for approximately 5 hours.
- b. Perform saw work at the rate of \$30.00 per hour if needed.

3. Payment in full consideration for the performance of all Operator's obligations hereunder shall be made weekly through the offices of Lusignan Forestry, Inc., as payments are received from purchasers. Said payment to be made on purchasers scale or other agreed upon basis as a deduction from the sale price of logs at the following rates:

For all logs sold on a Scribner scale basis, Operator shall be paid \$135.00/MBF plus loading and hauling which will be calculated at state rates plus 30 percent.

For all logs sold on a weight basis, Operator shall be paid \$14.00/ton plus loading and hauling which will be calculated at state rates plus 30 percent.

Should the sale price not exceed the logging plus hauling cost by 10% the Operator's payment shall be reduced so that there is at least 10% for the Owner.

4. In conducting operations hereunder, Operator shall conform to all federal, state, and municipal laws and regulations pertaining to safety, logging, forestry, and any other laws and regulations which might affect the operations hereunder covered.

5. Operator shall:

(a) At his own expense, maintain all necessary roads and facilities in good condition at all times, using Operator's available equipment. The roads to be kept suitable for travel by normal passenger vehicles. Any new roads constructed must be approved by Owner before construction commences. Any additional materials (i.e. crushed rock or culverts, etc.) will be supplied at Owner's expense.

(b) At his own expense, devote every reasonable effort and all facilities and employees to the prevention and suppression of any fires on the contract area, regardless of the cause or place of origin of such fire and shall furnish fire fighting equipment required by state law.

(c) Permit Owner to inspect all operations, facilities, scale reports, books, and other data in any way related to the performance of Operator's obligation.

(d) Pay all costs of labor and materials furnished hereunder and keep timber and all property of Owner free from all liens and encumbrances.

(e) Pay full delivered value for any timber not delivered to specified purchasers designated by Owner.

6. SUSPENSION OF OPERATIONS: If Owner determines in good faith that weather conditions, the presence of protected or endangered species on or near the contract area, or other environmental conditions are creating an excessive fire hazard or risk of excessive damage to roads, soils, surface water or other natural resources, or to any public resources, or risk of the violation of any applicable permits or environmental laws or regulations, Owner may notify Operator to temporarily suspend operations hereunder. Upon receipt of such notice, Operator shall immediately cease and suspend such operations until such time as Owner notifies Operator that it may re-commence operations.

7. JUDGMENT OF LOGGING SHOW: Operator is familiar with the logging show, has examined the timber, contract area and access roads, and knows the conditions of the premises and the quantity and quality of the timber. Operator is relying solely upon its examination, knowledge, information, judgment and experience in entering into this Agreement and is not relying on any representations of any employees or agents of Owner. Operator has examined and understands the Timber Harvest Permit.

8. (a) For the purpose of this agreement the Owner shall be considered the harvester and will cause the Forest Excise Tax of Washington to be paid.

(b) Owner has made no representation as to the present or future conditions of its property, and Operator assumes all risk of damage to property or of injury to Operator in connection with the exercise of rights hereunder.

(c) Owner warrants that he has the right legally to sell the timber, and shall indemnify and hold harmless Operator against all claims and liabilities asserted by third parties resulting from a proven lack or defect of such right.

(d) Operator shall pay for damage to Owner's property resulting directly or indirectly from the negligent act or omission of Operator hereunder, and shall reimburse Owner for all costs reasonably incurred for fighting fire resulting directly or indirectly from the Operator's act or omissions hereunder whether negligent or otherwise, during the term of this agreement.

(e) Operator shall indemnify and hold harmless Owner against all claims or liabilities asserted by third persons resulting directly or indirectly from the Operator's acts or omissions hereunder whether negligent or otherwise.

(f) Operator shall obtain and maintain during the term hereof liability insurance covering all motor vehicles and all other operations hereunder, with limits not less than \$1,000,000/\$1,000,000 personal injury and \$1,000,000 property damage. Operator shall furnish, prior to commencing operations hereunder, a certificate issued in connection with such policy naming Owner (and Lusignan Forestry) as an additional insured party and providing for ten days prior notice of cancellation to Lusignan Forestry, Inc., P O Box 1007, Shelton, WA 98584.

Operator shall also provide Lusignan Forestry with reasonable evidence that Operator has obtained and is maintaining insurance for worker's compensation, disability benefits and other similar employee benefit or industrial insurance acts in the amount required by applicable law covering all of the Operator's employees, and that Operator has paid all premiums due in connection therewith upon request.

(g) Operator shall brand logs of each load with LFI. A \$150.00 deposit is required for each branding hammer.

(h) Operator shall prepare a truck slip for each load at time of shipping (forms provided by Owner). One copy of all slips for loads delivered during a week are to be sent to Owner's representative within three days of the end of each week.

9. (a) As security for performance of this agreement, Operator agrees to furnish Owner with a performance bond or equivalent in an amount not less than \$10,000. Said security to remain with Owner's representative until such time as all aspects of the agreement have been completed to Owner's satisfaction.

(b) This agreement shall terminate (1) immediately upon insolvency, adjudication of bankruptcy, or appointment of a receiver for the property of Operator or any partner thereof, and (2) ten days after notice of default given by either party to the other, if default has not been remedied within such time.

(c) Any failure to exercise a right to terminate this agreement in case of default shall not constitute a waiver on the defaulting party's obligation to perform strictly in accordance with the terms of this agreement. Any such right to terminate shall remain in full force and effect and may be exercised so long as the default continues.

(d) Nothing herein contained shall be construed to make the Operator an agent of Owner or to authorize Operator to oblige Owner, or to constitute Operator and Owner joint adventurers.

(e) Any notice that shall be given hereunder may be served personally or by registered mail addressed to the party to be served at the latter's post office address herein set forth.

(f) This agreement shall not be assignable in whole or in any part by operation of law or otherwise, except upon written consent of the Owner. Any attempted assignment or sub-contracting shall be void.

(g) Owner has designated the professional foresters of LUSIGNAN FORESTRY, INC., 109 S 2nd Street / P O Box 1007, Shelton, Washington 98584, telephone (360) 426-1140, as its representative. Said forestry firm shall handle contract compliance, sale layout, log marketing, log accounting and preparation of forest excise tax reports and payment of forest excise tax and contract obligations through deductions from logging proceeds. Said foresters shall also decide any and all questions which may arise between Owner and Operator as to the quality and acceptability of work performed by Operator under this agreement.

(h) This agreement may be extended or altered by written agreement of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate, as of the day and year herein above stated.

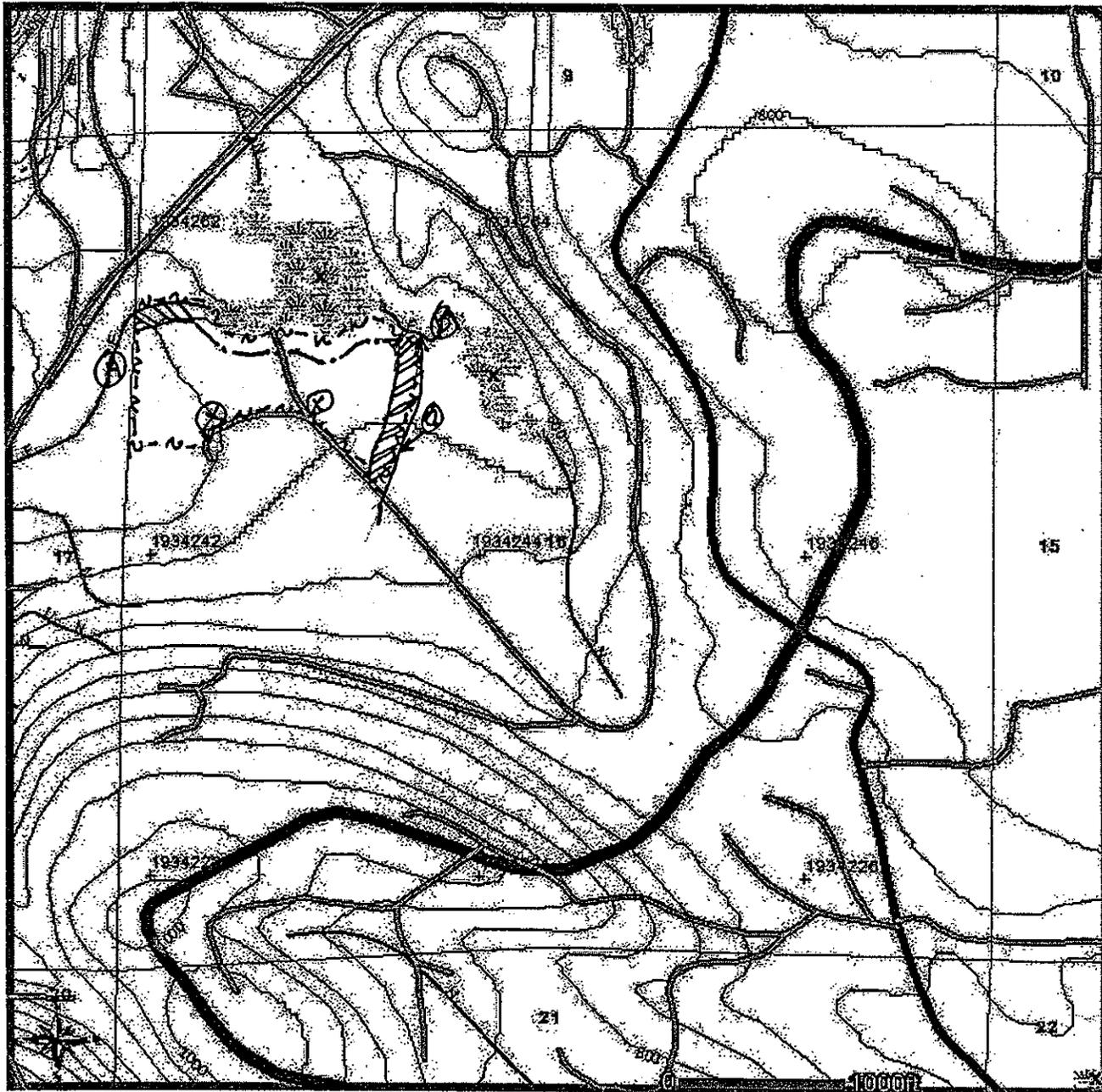
Date City of Sultan, Timber Owner Federal Tax Identification Number

Date Dan Bowman, Bowman Logging Co Inc., Operator Federal Tax Identification Number

FOREST PRACTICE ACTIVITY MAP

TOWNSHIP 28 NORTH HALF 0, RANGE 08 EAST (W.M.) HALF 0, SECTION 16

Application #: _____



Please use the legend from the FPA Instruction or provide a list of symbols used.

Legend

- - - uneven-aged harvest boundary
- Ⓐ - Stream Identification
- ▨ - Stream buffer - Stream A - Type F Site III - 110' buffer
Stream B & C - Type F Site II - 113' buffer
- Ⓢ - Wetland Buffer - 100' buffer Average - NO harvest or equipment operation
Type A Wetland - Take trees marked w/ blue paint in outer 100' WMZ
- Ⓧ - Landing

Tuesday, March 13, 2007 8:28:44 AM
NAD 83
Contour interval: 40 Feet



WASHINGTON STATE DEPARTMENT OF **Natural Resources**

**Forest Practices Application/Notification
NOTICE OF TRANSFER**

I/we transfer my/our rights, privileges, and obligations under this approved Forest Practices Application or Notification. I/we affirm that the information contained below is true and agree to comply with the rules authorized by the Forest Practices Act and to be bound by all conditions on the approved application or notification.

FPA/N Number: 2809122 Section(s): 16 Township: 28 Range: 8 E

Original Landowner (Signature): _____

Original Landowner (Printed): City of Sultan Date: _____

New Operator – Fill out this section <u>only</u> if you are changing or adding an operator	
Legal Name of New Operator: (Print) Bowman Logging Co. Inc.	Mailing Address: P O Box 1356 Monoe, WA 98272
Phone:	
Email:	
New Operator Signature: _____ Date: _____	

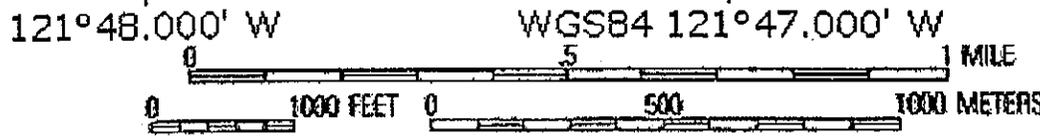
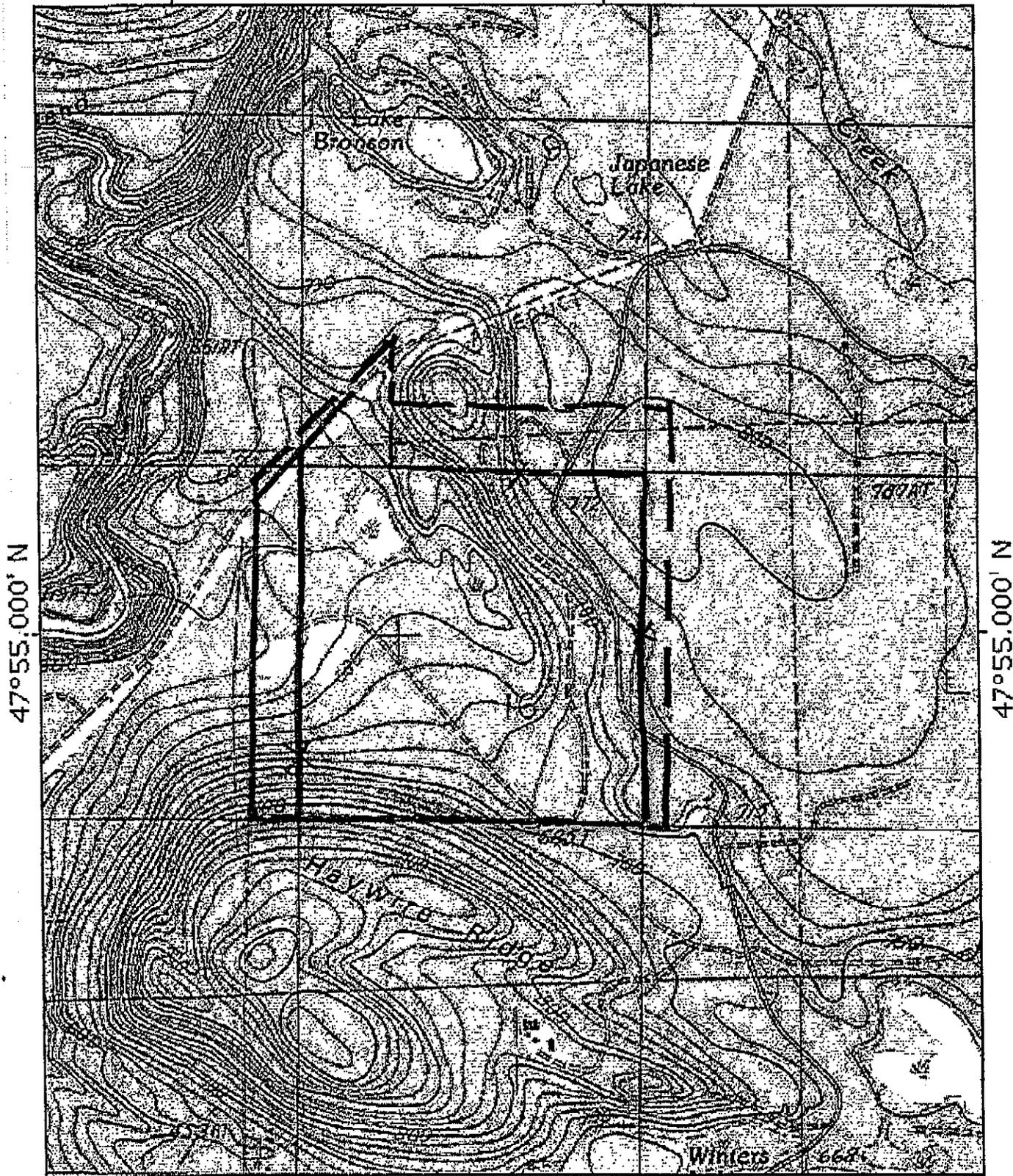
New Landowner – Fill out this section <u>only</u> if you are transferring your FPA to a new landowner	
Legal Name of New Landowner: (Print)	Mailing Address:
Phone:	
Email:	
New Landowner Signature: _____ Date: _____	

New Timber Owner – Fill out this section <u>only</u> if you are transferring your timber rights	
Legal Name of Timber Owner: (Print)	Mailing Address:
Phone:	
Email:	
Forest Tax Reporting Account Number: (Contact Dept. of Revenue to get this number: 1-800-548-8829)	
New Timber Owner Signature: _____ Date: _____	

[] Received by: _____ Date: ____/____/____
(DNR Forest Practices Staff Signature)

Attachment B-1

TOPO! map printed on 11/17/03 from "WASHIN~1.tpo" and "Untitled.tpg"
121°48.000' W WGS84 121°47.000' W

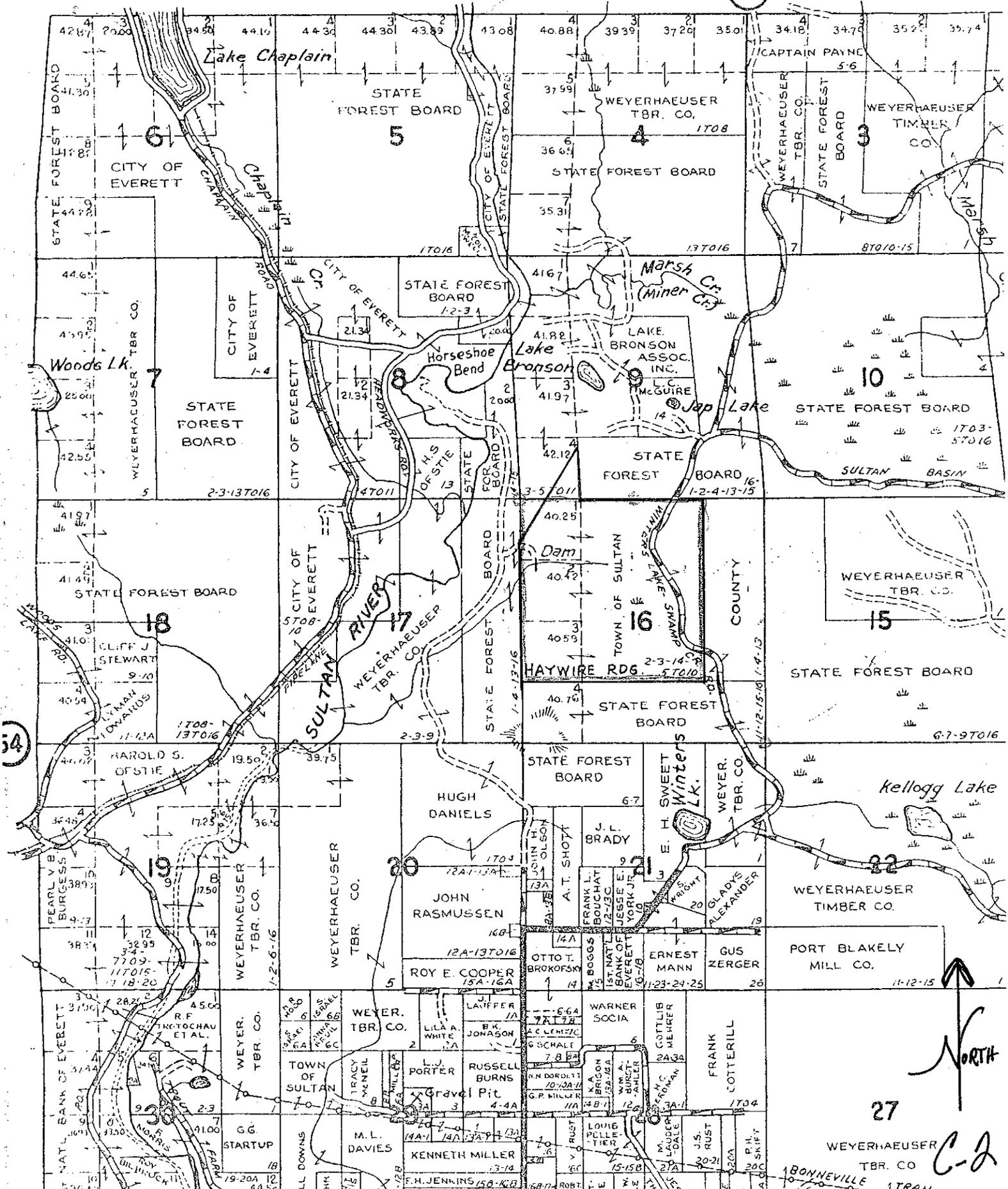


Printed from TOPO! ©2000 National Geographic Holdings (www.topo.com)

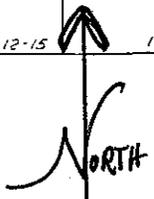
ATTACHMENT C-1

T20N R06E WM.

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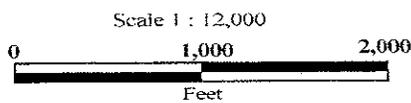
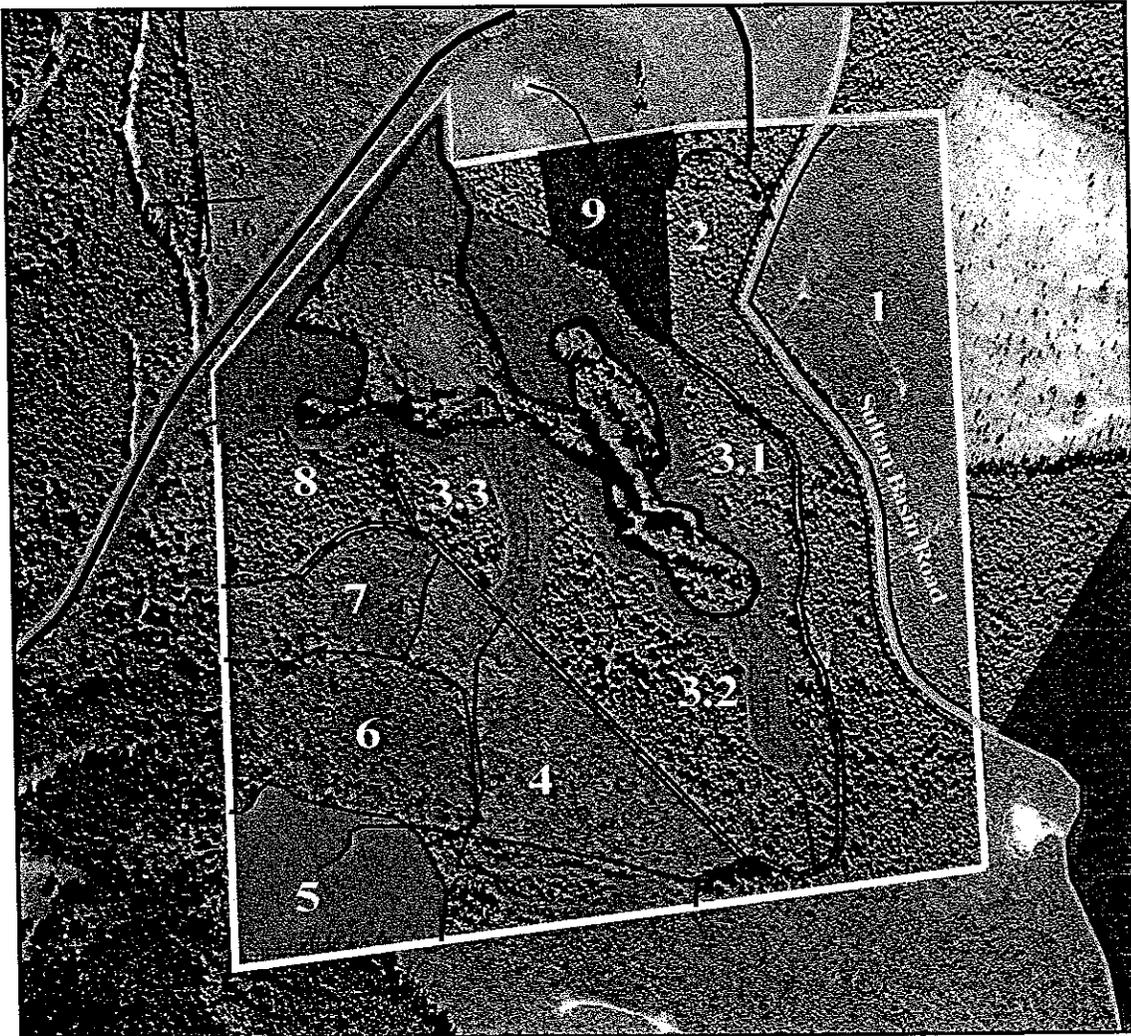
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C-2

WEYERHAEUSER TBR. CO. BONNEVILLE TRAN.

Timber Type Map
City of Sultan
Watershed Parcel

NW 1/4 Lying South and East of Water Line Right-of-Way,
N 1/2 of SW 1/4, W 1/2 of NE 1/4, NW 1/4 of SE 1/4,
Section 16; S 1/2 of SW 1/4 Lying South and East of Water Line Right-of-Way,
Section 8, Township 28 North, Range 8 East, W.M.,
Snohomish County, Washington
Containing Approximately 355+/- Total Acres



NOTE: Though great care was taken in creating this map, information herein is supplied as a courtesy to interested parties and is in no way warranted or guaranteed. (Date: 12/06-6-20-2011)

C-3

Lusignan
Forestry,
Inc.



Update: December, 2006