

95-20111

ARLINGTON PUBLIC WORKS  
FAX TRANSMITTAL SHEET

PUBLIC WORKS OFFICE · 816 N WEST AVENUE  
MAILING ADDRESS 238 N OLYMPIC ARLINGTON, WA 98223  
PHONE: (360) 435-3811 · (360) 435-3811

DATE: 10-21-98

TO: Ron Jackson

FIRM: Catellus Mgmt

FAX NUMBER: (912) 719-6153

FROM: Crusty Brubaker

SUBJECT: Pipeline Permit

NUMBER OF PAGES TO FOLLOW: 7

IF YOU EXPERIENCE PROBLEMS RECEIVING THIS FAX, OR IF YOU DO NOT RECEIVE THE NUMBER OF PAGES INDICATED, PLEASE CALL OUR OFFICE AT (360) 435-3811.

ADDITIONAL COMMENTS: Per our phone conversation  
Could you research this permit and let me  
know its status and how we could get it  
renewed, if expired. — Also timeframes on approvals.

Faxed by: CB Date: \_\_\_\_\_ Time: \_\_\_\_\_



## PIPELINE PERMIT NO. PX95-20111

Mark Reeves, P.E. 94-262

AGREEMENT made this 31st day of May, 1995, between BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation, hereinafter called "Burlington," and

CITY OF ARLINGTON, a Municipal corporation, hereinafter called "Permittee," whose address is:

238 North Olympia Avenue  
Arlington WA 98223

WITNESSETH:

Burlington, for and in consideration of the fee herein provided to be paid by Permittee to Burlington, and of the covenants and promises hereinafter made to be observed and performed by Permittee, does hereby grant to Permittee license and permission to excavate for, construct, maintain, and operate

**A 43" STEEL STORMWATER CASING PIPE, BURIED AT A MINIMUM DEPTH OF 5' INSTALLATION BY JACK AND BORE, WITH FACE OF JACKING/RECEIVING PITS A MINIMUM OF 25-FEET FROM CENTERLINE OF NEAREST TRACK**

**NOTE: DITCH WORK BY BN MAINTENANCE OF WAY ACCOUNT UNION AGREEMENT. ADDITIONAL 42' STEEL PIPE WILL BE REQUIRED AT SS: 3024 + 00**

hereinafter referred to as 'Facility' upon, along or across the right-of-way of Burlington, underneath the surface thereof, and under the tracks of Burlington, as the case may be, at or near

**EDGEComb** Station, in the County of **Snohomish**, State of **Washington** to be located as follows, to wit:

Line Segment: 0406      Survey Station: n/a      Mile Post: 5.71

Prior to installation, 48 hours' advance notice must be given to the following BN offices:

Network Control Center 1-800-533-2891  
Roadmaster M. C. Balgaard, Everett at 206-304-6690  
Signal Supervisor M. D. Anderson, Everett at 206-304-6687  
Telecommunications Supervisor G. D. Mergel, Seattle at 206-467-3489

Also, upon completion of your work on BN property, advise the Roadmaster, allowing final inspection of the site.

Permittee in consideration of such license and permission hereby covenants and promises as follows:

1. For this Permit, Permittee will pay Burlington, in advance, the sum of Four Hundred Fifty Dollars (\$450) for the entire time this Permit remains in effect and Permittee will also pay or reimburse Burlington for all taxes and assessments that may be levied or assessed against said Facility. Burlington reserves the right to change the fee on future Permits at any time without notice. This provision shall in no way affect Burlington's right to terminate said Permit pursuant to Paragraph 10 hereof. Either party hereto may assign any receivables due them under this



Agreement, provided, however, such assignments shall not relieve the assignor of any of its rights or obligations under this Agreement.

2. Permittee, at Permittee's sole cost and expense, shall excavate for, construct, reconstruct, maintain and repair said Facility placing same in accordance with the specifications provided in application dated 5/17/95, heretofore approved by Burlington. Permittee shall fill in the excavation and restore the surface of the ground upon which the Facility is located to its previous condition subject to the General Manager's approval. Said General Manager shall have the right at any time when in his/her judgment it becomes necessary or advisable to require any material used in the work to be replaced with like material or with material of a more permanent character, also to require additional work or change of location of said Facility as a matter of safety and/or appearance, or on account of additional tracks being laid, change of grade thereof, construction of a building, or for any other reason whether or not connected with the operation, maintenance, or improvement of Burlington's railroad, all of which shall be done at the expense of Permittee in the manner herein provided.

3. Permittee shall give to the Roadmasters office at least two (2) days advance notice of any work to be done by Permittee in the excavation for, construction, reconstruction, maintenance, repair, change of location, or removal of said Facility, and shall conduct said work in such a manner as not to interfere with the maintenance and operation of Burlington's railroad.

4. In the event that Burlington performs any work, furnishes any material or flagging service, or incurs any expense whatsoever on account of the excavation for, construction, reconstruction, maintenance, repair, change of location, removal of the Facility, or otherwise, Permittee shall reimburse Burlington for the cost thereof within twenty (20) days after bills are rendered therefor. If the excavation for, construction, reconstruction, maintenance, repair, change of location, or removal of the Facility, requires any or all of the following work: removal and replacement of track, bridging, protection of track, or other railroad facilities by work or flagging, engineering, and/or supervision, such work is to be performed by Burlington employees and the cost borne by Permittee.

5. (a) PERMITTEE IS PLACED ON NOTICE THAT FIBER OPTIC, COMMUNICATIONS, CONTROL SYSTEMS, AND OTHER TYPES OF CABLES MAY BE BURIED ON BURLINGTON'S PROPERTY. Before beginning work, Permittee shall telephone Burlington's Communications Network Control Center at 1-800-533-2891 (a 24 hour number) to determine if cable systems are buried on Burlington's property to be used by Permittee. The Communications Network Control Center will contact the appropriate personnel to have cables located and make arrangements with Permittee as to the protective measures that must be adhered to prior to the commencement of any work on Burlington's property. In addition to the liability terms elsewhere in this Agreement, Permittee shall indemnify and hold Burlington harmless against and from all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Permittee, its contractor, agents and/or employees, that cause or in any way or degree contribute to (1) any damage to or destruction of any telecommunications system by Permittee, and/or its contractor, agents and/or employees, on Burlington's property, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Burlington's property, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies).

6. In the event any cathodic electrolysis or other electrical grounding system is installed in connection with the Facility which, in the opinion of Burlington, interferes with train signals in any way, telephone or telegraph lines, or other facilities of Burlington, Permittee, upon being informed by Burlington of such interference, shall forthwith discontinue operation of and remove said grounding system, or take such steps as may be necessary to avoid and eliminate all such interference. Permittee further agrees to indemnify and save harmless Burlington from and against any damages, claims, losses, suits, or expenses in any manner arising from or growing out of interference with the signals, telephone, or telegraph lines of Burlington by the operation, use, or existence of any such grounding system.

7. Permittee shall and hereby releases and discharges Burlington of and from any and all liability for damage to or destruction of said Facility, and any other property of Permittee located on or near Burlington's



premises, and shall and hereby assumes any and all liability for injury to or death of any and all persons whomsoever, including officers, employees, and agents of the parties hereto, and loss of or damage to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of the parties hereto, in any manner arising from or during the excavation for, construction, reconstruction, use, maintenance, repair, or removal of said Facility, however such injury, death, loss, damage, or destruction aforesaid may occur or be caused, and shall and hereby does indemnify and save harmless Burlington of and from any and all claims, demands, suits, actions, damages, recoveries, judgments, costs, or expenses arising or growing out of or in connection with any such injury, death, loss, damage, or destruction aforesaid. Permittee further agrees to appear and defend in the name of Burlington any suits or actions at law brought against Burlington on account of any such personal injury or death, and loss and damage to or destruction of property, and to pay and satisfy any final judgment that may be rendered against Burlington in any such suit or action. THE LIABILITY ASSUMED BY PERMITTEE SHALL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE LOSS, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BURLINGTON, ITS AGENTS, SERVANTS, EMPLOYEES, OR OTHERWISE.

8. Permittee shall not transfer or assign this Agreement without the written consent of Burlington.

9. Nothing herein contained shall imply or import a covenant on the part of Burlington for quiet enjoyment.

10. It is expressly understood and agreed that Burlington may at any time cancel and terminate this license and permission by giving to Permittee thirty (30) days written notice of its intention to cancel the same and at the expiration of such notice this license and permission shall terminate. Upon receipt of such notice and before the expiration thereof, Permittee, under the supervision and direction of Burlington's Superintendent Maintenance & Engineering, or his authorized representative, shall remove said Facility from the right-of-way of Burlington and restore the right-of-way and premises of Burlington in a manner and to such condition as shall be satisfactory to said Superintendent Maintenance & Engineering. If Permittee fails to remove the Facility and restore said right-of-way to such condition within said thirty (30) day period, Burlington at its option may remove same and restore said right-of-way to its previous condition, and Permittee shall pay to Burlington the cost and expense thereof.

11. Upon any failure of Permittee to punctually and strictly observe and perform the covenants and promises made herein by Permittee to be kept and performed, Burlington may terminate this Agreement on ten (10) days notice to Permittee, remove said Facility, and restore said right-of-way to its previous condition at the cost and expense of Permittee.

12. Any notices given under the provisions of this Agreement shall be good if properly deposited with the United States Postal Service addressed to Permittee at Permittee's post office address above stated.

13. The license and permission herein granted is subject to permits, leases, and licenses, if any, heretofore granted by Burlington affecting the premises upon which said Facility is located.

Subject to the foregoing provisions, this Agreement and all of the covenants and promises thereof, shall inure to the benefit of and be binding upon the parties hereto, their respective executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the day and year first hereinabove written.

BURLINGTON NORTHERN RAILROAD COMPANY

For: \_\_\_\_\_  
AVP Finance & Administration

CITY OF ARLINGTON  
(Permittee)

By \_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Witness)



The Permittee and contractors must at their own expense obtain and maintain in force during construction the following insurance:

1. Commercial General Liability Insurance, including contractual liability and products completed/operations, against claims arising out of bodily injury, illness and death and from damage to or destruction of property of others, including loss or use thereof, and including liability of Burlington Northern Railroad Company, with minimum limits for bodily injury and property damage of \$1,000,000 for each occurrence, with an aggregate of \$2,000,000. This policy shall contain a "Waiver of Transfer Rights" endorsement to waive any right of recovery that the insurance company may have against Burlington Northern Railroad Company because of payments made for bodily injuries and property damage.
2. Business Automobile Policy Insurance, including owned, non-owned, and hired vehicles with minimum limits for bodily injury and property damage of \$1,000,000 per occurrence, on all vehicles that the Permittee or any of its agents or employees may use at any time in connection with the performance of this Agreement.
3. Worker's Compensation Insurance or coverage as required under the Worker's Compensation Act of the applicable state. The policy should include occupational disease to required statutory limits, employer's liability of \$1,000,000 to include FELA, if appropriate, and an "all states" endorsement.

Evidence of the above insurance (certificate of insurance) must be provided prior to commencement of work and BN shall not be named insured under the above policies.

4. A Railroad Protective Liability Insurance policy issued in the name of Burlington Northern Railroad Company with limits of \$2,000,000 for bodily injury and property damage per occurrence, with an aggregate of \$6,000,000 must be provided when construction work will be within 50 (Fifty) feet of our tracks. The policy will remain in force during the construction phase of this project and must be provided prior to BN signing the permit or contract.

#### OPTION

Instead of No. 4 above, participation in Burlington Northern Railroad Company's BLANKET RAILROAD PROTECTIVE LIABILITY INSURANCE POLICY is available to Permittees and contractors. The limits of coverage are the same as above and are in force during the construction phase of the Permit. The amount is shown on the cover letter.

#### CONTRACTOR:

#### SUBCONTRACTOR:

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Address

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Address

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City, State

Zip

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City, State

Zip

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Project Engineer's Name

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Project Engineer's Name

If more than one Subcontractor is involved, attach additional information to this Addendum, together with Insurance required.

**NEITHER PERMITTEE, CONTRACTOR, OR ANY SUBCONTRACTOR SHALL BEGIN ANY WORK ON BURLINGTON'S PROPERTY AND/OR RIGHT-OF-WAY UNTIL ALL NECESSARY EVIDENCE OF INSURANCE HAS BEEN FURNISHED AND APPROVED BY BURLINGTON NORTHERN, AND THE ROADMASTER NOTIFIED 48 HOURS IN ADVANCE.**

Questions or clarifications of insurance requirements may be directed to:

Ms. Judith Harris, Risk Management Analyst  
BURLINGTON NORTHERN RAILROAD COMPANY  
777 Main Street  
Fort Worth, TX 76102  
Phone: 817-333-2374 FAX: 817-333-7032



**REQUIREMENTS FOR CONTRACTORS & SUBCONTRACTORS WORKING  
ON BURLINGTON NORTHERN RAILROAD RIGHT-OF-WAY**

In order to protect BN's investment in its right-of-way and for the safety of persons coming onto BN property, BN has established certain requirements. The following constitute minimum requirements for all persons coming on or near BN right-of-way. Contractors are encouraged to develop their own safety rules that meet or exceed the following requirements. Contractors will not be allowed to occupy or work on Burlington Northern RR right-of-way prior to signing and dating this document and returning it to the Burlington Northern contact person shown on page 2.

1. All permits and agreements must be in effect, required payments made, and insurance certificates received and approved prior to Contractor entering Railroad right-of-way. Insurance must remain in effect during the entire project.
2. Any dewatering utilizing drains or ditches on BN property must be approved by a BN Engineer or Roadmaster.
3. Contractor must have BN approved "Construction Plans" prior to commencing work on a project. No change will be made to "Construction Plans" without approval by all parties involved. Approved revised plan will be furnished to all parties prior to implementation of changes.
4. Road Authority or Contractor will incur all costs for track work, including flagging, etc., made necessary due to their construction operation.
5. Pursuant to Federal Regulation, flagging protection is always required when equipment crosses or is working within 25 feet of center of any live track. When deemed necessary by local BN officers, a flagman may be required at all times while working on BN right-of-way in high density rail traffic areas.
6. Crossing of any Railroad tracks must be done at approved locations and must be over full depth timbers, rubber, etc. Any equipment with steel wheels, lugs, or tracks must not cross steel rails without aid of rubber tires or other approved protection.
7. All temporary construction crossings must be covered by a Private Roadway & Crossing Agreement, and must be barricaded when not in use.
8. Contractor must furnish details on how he will perform work that may affect existing drainage and/or possible fouling of track ballast as well as removal of overhead bridges/structures. (Structures and bridge spans over tracks must be removed intact.)
9. Absolutely no piling of construction materials or any other material, including dirt, sand, etc., within 15 feet of center of any secondary track (25 feet of Main Line and siding tracks) or on property of the Railroad not covered by Construction Easement, permit, lease or agreement. A 10' clear area on both sides of a main track must remain unobstructed at all times to allow for stopped train inspection.
10. No construction will be allowed within 15 feet of center of any track unless authorized by Burlington Northern Railroad General Roadmaster and as shown on Plan approved by the Railroad. This includes any excavation, slope encroachment and driving of sheet piles.

11. No vehicles or machines shall remain unattended within 15 feet of a secondary track or within 25 feet of a Main Line track.
12. IMPORTANT: Disregard of any of these items will result in Contractor being shut down for a minimum of 48 hours on Burlington Northern Railroad right-of-way while infraction is investigated. Based on findings of the investigation, it will be determined if the Contractor will be allowed to work on BN RR right-of-way in the future.
13. Contractor safety rules, including rules regarding Personal Safety Equipment, must not conflict with BN safety policies or rules. The following safety items are required while on Burlington Northern RR property:
  - 1) Safety Hat
  - 2) Safety Glasses
  - 3) Steel-toed, lace-up boots
14. Articles included in Agreement should complement this document or exceed its contents.

**CONTRACTOR'S ACKNOWLEDGMENT:**

\_\_\_\_\_  
COMPANY

By: \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

**SUBCONTRACTOR'S ACKNOWLEDGMENT:**

\_\_\_\_\_  
COMPANY

By: \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_

PERMIT NUMBER; Px95-20111

(Form 4/29/93)

