



BURLINGTON NORTHERN RAILROAD

2000 First Interstate Center
999 Third Avenue
Seattle, WA 98104-1105

City of Arlington
City Hall
238 N. Olympic Avenue
Arlington, WA 98223

August 26, 1988

Attention: Ms. Kathy Peterson
City Clerk

Re: Permit No. PX88-16093 for underground sewer pipe line crossing at
ARLINGTON, WA.

Attached is copy of completed agreement for your file.

This will also acknowledge receipt of your Warrant No. 022249 dated
August 16, 1988, in the amount of \$450.00, to cover the permit fee for
the ENTIRE TIME THAT THIS PERMIT REMAINS IN EFFECT.

Before beginning any work on our right-of-way, 48 hours' advance notice
must be given to Roadmaster Mr. M. C. Balgaard so he can make any
arrangements he deems necessary. His telephone number in Everett, WA is
206-259-9690.

Yours truly,

Bob Luckey
Permit Clerk/PACIFIC DIVISION

Att.

cc: Mr. R. L. Gunderson
Mr. M. C. Balgaard, Roadmaster

Pipeline Permit
No. PX88-16093

THIS AGREEMENT, made this 1st day of AUGUST, 1988, between BURLINGTON NORTHERN RAILROAD COMPANY, a Delaware corporation, hereinafter called "Railroad" whose post office address is 2000 First Interstate Center, 999 Third Avenue, Seattle, Washington 98104-1105, and

CITY OF ARLINGTON, a N/A corporation,

whose post office address is Third and Olympic Streets, Arlington, WA 98223

hereinafter called "Permittee,"

WITNESSETH:

Burlington, for and in consideration of the fee herein provided to be paid to it by Permittee 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 10" underground sewer pipe line encased in a 16" steel casing pipe crossing at a 80° angle of track at a minimum depth of 5'6" from T/Tie to T/Casing pipe - installation by jacking/boring with face of jacking/receivng pits a minimum of 25' from center line of nearest track

hereinafter referred to as the "facility," upon, along or across the right-of-way of Burlington, under the tracks of Burlington, as the case may be, at or near

ARLINGTON, in the County of Snohomish, State of Washington,

to be located as follows, to-wit:

Crossing at Survey Station 3110+70 - Milepost 5.93.

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 (\$450.00) 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 this permit pursuant to Paragraph 10 hereof.

2. Permittee, at Permittee's sole cost and expense, shall excavate for, construct, reconstruct, maintain and repair said Facility, placing the same in accordance with the specifications provided in application dated May 17, 1988, heretofore approved by the 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 Division Roadmaster's approval. Said Roadmaster 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 Division Roadmaster at least 48 hours' advance notice of any work to be done by Permittee in the excavation, construction, reconstruction, maintenance, repair, change of location or removal of the Facility, and shall conduct such work in such manner as not to interfere with the maintenance and operation of Burlington's railroad.

or contractor of Permittee, or for the protection of Burlington property and operations, does 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) Fiber optic cable systems may be buried on Burlington's property. Permittee shall telephone Burlington at 1-800-533-2891 (a 24-hour number) to determine if fiber optic cable is buried anywhere on Burlington's premises to be used by Permittee. If it is, Permittee will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on Burlington's premises. In addition to the liability terms elsewhere in the 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 causes or in any way or degree contributes 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 the 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, demands, suits, action, damages, recoveries, judgment, 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 injuries 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 permit without the written consent of Burlington.

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