

To: Honorable Hearing Examiner, King County and City of Sammamish: 11/7/2017

Re: Written input to Public Hearing for SSDP2016-00415 ELST Segment 2B on Day 3.
From: Mary Wictor 408 208th Ave NE, Sammamish, WA 98074; owner in Tamarack.

I have been an owner and resident in the City of Sammamish since 6/2000 and I live in an older, historic neighborhood called, "Tamarack" for which the King County Assessor recorded our plat officially in 1964, and we have beach & swimming rights since 1968.

A) I am glad to see "Public use of Public Lands" supported with ELST Segment 2B. The Trail is a wonderful amenity both locally & regionally that all should enjoy, widely (literally and figuratively!)

I hope that during and especially after construction, there will be as many access points to the Trail as possible, to improve connectivity and reduce residents having to drive to the ELST/Trail and park to access and use it. *This can and should be done by keeping more of the construction driveways marked.* [Refer to my input and King County initial Response to Public Comment in SB-032a to -032e and -033d pages 188-189 of 200.] *During the hearing Monday, 11-6-17, I believe the County did say they intended to keep "all driveways"?! If so, that will be wonderful for any/all public uses, wherever possible!*

[1-page **Easement #5053649** shows Tamarack (spelled without the 'c' as an unrecorded plat--as Tamarack 1964+) at least has "on and to" rights between Stations shown as: **431:80 on page EX18 (parcel numbers go from 173870-nnnn to 077710-nnnn)** to/thru **445:00 on page EX19 (parcel numbers go from 077710-nnnn to 357530-nnnn)** in the 60% Revised Plans, Exhibit 7... re: Tamarack residents access at least to North half of the northwest quarter, if not also applicable to current/future public access(es) to Trail—which I have created a map to show this by drawing on screen capture from K.C. iMap.]

B) I do support protection of "private property" rights/access and I hope that in reality both the County and City are working with individual owners regarding their concerns.

I also hope those will be solved readily and fairly without costly or lengthy legal battles.

C) Like me, and my many neighbors in Tamarack/plat from 1964, there are easements and rights established many years ago that should be preserved with access provided and maintained, specifically as UPLAND owners/residents. (**Easement: #6328552**). {I have also included a map excerpt showing prior ownership within Sect-6 T-24N R-6E, showing that Northwestern Capital Corporation, who granted this, as an upland owner.}

I support the removal of any fences blocking our access to beach & swimming areas for which Tamarack has held easement rights since 1968. From looking at the ELST 60% Revised Plans, plus written County responses to date, it is NOT clear exactly what will be done—Stations 338:00-339:80, the RR is 200ft wide and DOES include shoreline

access. [The 60% revised plans show an existing fence line in **Exhibit 7, page EX8 (16 of 158)**, but King County comments seem to indicate removal.]

If a fence is to remain (or might be permitted to be built/re-built under any Special Use Permit) then I ask that a gate be installed and marked as being for our neighborhood, "Tamarack", so that we will have our access as originally recorded in the 1968 easement and be able to enjoy our rights.

While documents of our easement and recordings were submitted before Jan 27, 2017 with responses provided under SB-001 and SB-032a/b/c, I have attached some new information (and ~~repeated~~ ^{with new} just 3 key pages for easy reference vs flipping pages to find.)

Thank you for your attention, consideration, thorough review, and hopeful action on these matters. [Tamarack neighborhood is historic (< 1977) with 210 lots, 175 homes.]

Sincerely, Mary Wictor 425-283-7253 mobile wictormary@gmail.com

P.S. Some research on "ownership" or lack thereof for the Land near Station 339:00. **D)**

During the afternoon on the 1st day of the Public Hearing on Friday, 11/3/2017, several resident owners in View Point Park (VPP) neighborhood gave testimony. Specifically, Charles Meyer stated he claims ownership by VPP via an "undivided interest" dating back to 1954 from Mr. ~~Sutter~~ ^{Sutter}. However, I do not believe that any deed nor proof of ownership document(s) has been provided to legally establish this.

[See DEDICATION for "whatever public property" the face of the **2-page plat for View Point Park** officially recorded document from **1947.06.27 as #3699936**. Compare DESCRIPTION legal language to sheet 2 of 2 plat drawing—east of RR east margin.]

To provide documents that appear quite contrary to Mr. Meyers claim of ownership, I have obtained LEASE agreements that seem to definitely indicate that Mr. Meyers of VPP does NOT have ownership to the Trail/RR area as he and others, specifically: Charles O. Meyer, James H. Hess, James G. Lund have to pay a lease for private driveway access shown on Exhibit 7, the 60% Revised Plans right **near Station 338:20 page EX8 (16 of 158)**.

As page-2 drawing excerpt identifies from Short Plat 481085 Hess-Lund-Meyer signed: Attached is recorded doc **#8305120498**, obtained from King County Archives regarding an **"Indefinite Term Lease"** with Burlington Northern Inc. Railroad (BNRR) being the Lessor, and Charles Meyer as the Lessee. That Lease gives Mr. Meyers permission to have a private road, but he must pay a fee. I have taken the liberty to highlight in yellow key wording that appears to apply in those first 8 pages. Note: it is the Railroad/Lessor's premise; Lessor reserves the right at any time to permit/occupy and use in common;

"Private Roadway and Crossing Agreement" is also part of attached 8305120498. It does cover if right-of-way is fenced and crossing gate use, plus vegetation/view (sight

distance) for approaching from either direction. Additionally, quoting directly, "8. *The permission hereby granted shall neither be or be deemed or construed to be a grant of land nor shall it constitute ownership by Permittee of the roadway or that portion of the right of way of Railroad upon which the roadway is located.*" It's the RR/Lessor's land.

Finally, note also the legal language of "*the Railroad shall have the right to terminate this agreement at any time... for any purpose whatsoever... in the event Railroad should require use of its promises occupied by the said roadway or any part thereof.*" See at least my yellow highlights on the first 8 pages (with the remaining 8+9 of the total 25 pages of #8305120498 are just "identical" agreements signed/executed by James H. Hess, and then James G. Lund as to that executed by Charles O. Meyer.)

I hope that my input, research, and documents attached and highlighted will help bring fair and more expedient resolution to ensure that private property owners as well as uplands residents/owners easements are respected and upheld during ELST work ensuring access to and maintenance of those rights.

WHEREAS W. W. Hansen and Joan Hansen, his wife are the owners of the following described property in King County, State of Washington, to-wit:

TAMARAK No. 3 - The north half of the northwest quarter of section 32; and the northeast quarter of the northeast quarter of section 32, both in township 25 north, range 6 east, W.M., in King County, Washington.

AND WHEREAS said parties desire to create a non-exclusive perpetual easement for and to said property for benefit of said property and certain other property and any part thereof, now therefore it is hereby agreed as follows:

- (1) There is hereby created a non-exclusive perpetual easement for roadway and for egress and ingress and for utility purposes to and from said described property.
- (2) Said easements are described as follows: to-wit in King County, St. of Wash.

Easements for ingress and egress over the following described parcels of land in the northeast quarter of the northeast quarter of section 32, said township and range:

- (a) The east 40 feet of the south 350 feet;
- (b) The west 60 feet of the east 358.72 feet of the south 350 feet;
- (c) The west 60 feet of the east 687.44 feet of the south 350 feet;
- (d) The west 60 feet of the east 1016.32 feet of the south 350 feet;
- (e) The south 30 feet, EXCEPT the west 140 feet thereof.
- (f) That portion thereof lying within a strip of land 60 feet in width, being 30 feet on each side of the following described center line; Beginning at a point on the south line of said northeast quarter of the northeast quarter, distant north 89°08'16" west 1166.24 feet from the southeast corner thereof; thence north 3°17'45" east 148.98 feet; thence north 44°29'27" west to the west line of said subdivision.

- (3) Said easements are for the benefit of the above described land and any part thereof.
- (4) This agreement is binding on the parties hereto, their heirs and assigns, and any parties who shall have any interest in the above described lands or any part thereof and shall run with the above described lands and any part thereof.

W. W. Hansen and Joan Hansen, his wife, By *H. R. Watchie*
Attorney in fact

"non-exclusive perpetual ... on and to"

B-579570 U-13

STATE OF WASHINGTON
County of King

On this 2nd day of July, A.D., 1959, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared H. R. Watchie to me known to be the individual who executed the foregoing instrument as attorney in fact of W. W. Hansen and Joan Hansen, his wife, therein described, and acknowledged to me that he signed and sealed the said instrument as such attorney in fact for said principal, freely and voluntarily, for the uses and purposes therein mentioned, and on oath stated that the power of attorney authorizing the execution of this instrument has not been revoked and that the said W. W. Hansen and Joan Hansen, his wife, are now living.

WITNESS my hand and official seal first above written.

H. R. Watchie
Notary Public in and for the State of Washington, residing at Seattle.

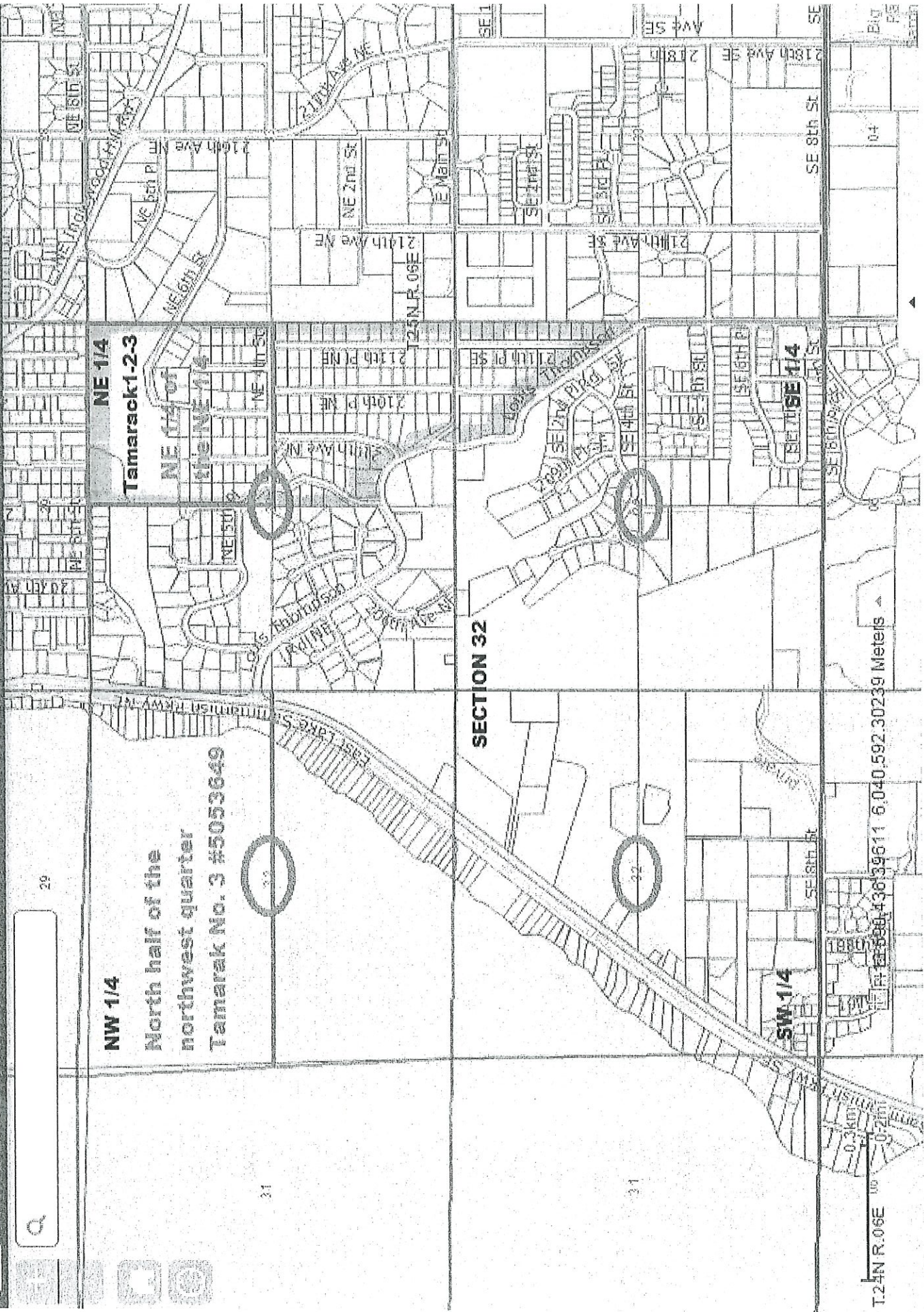


Filed for Record July 8 1959 3:28 P.M.
Request of Seattle Title Company
ROBERT A. MORRIS, County Auditor

MAP 1-page Screen Capture from KIC, iMap marked by M. Wictor.

← King County iMap: Interest: X X
gismaps.kingcounty.gov/iMap/?center=-13587273%2C6042061&scale=18055.954822&

King County iMap



NW 1/4
North half of the
northwest quarter
Tamarak No. 3 #5053649

NE 1/4
Tamarack 1-2-3

SECTION 32

SW 1/4

NE 1/4 of the NE 1/4

1.24N R.06E 100 0-340' 0-200' 6,040,592,30239 Meters

VIEW POINT PARK

Section 6, Twp. 24 N. R. 6 E. W. M.

May 1947

SHEET 1 OF 2 SHEETS

General Engineering Co, Inc.
Engineers

DESCRIPTION

All of Government Lot 4, Section 6, Township 24 North, Range 6 East, W.M. lying east of the east margin of the right-of-way of the Northern Pacific Railroad; except the 60 foot right of way of the Issaquah-Redmond Road and the East 43.20' thereof.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that we the undersigned Fritz D. Sutter, Helen L. Sutter, his wife, and J.A. Holmes, Mortgagee, owners in fee simple of the land hereby platted, hereby declare this plat and dedicate to the use of the public forever, all streets, avenues and alleys shown here-on and the use thereof for all public purposes not inconsistent with the use thereof for public highway purposes; also all parks, easements or whatever public property or places there are shown on the plat for the purpose there-on indicated; also, the right to make all necessary slopes for cuts or fills upon the lots, blocks, tracts or parcels of land shown on this plat in the original reasonable grading of all the streets, avenues, alleys and places shown here-on.
IN WITNESS WHEREOF we have hereunto set our hands and seals this 12th day of June, A.D. 1947.

J.A. Holmes
J. A. HOLMES

Fritz D. Sutter
Fritz D. Sutter

Helen L. Sutter
Helen L. Sutter

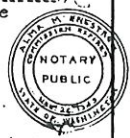
RESTRICTIONS

No lot or portion of a lot in this plat, shall be divided and sold or resold, or ownership changed or transferred, whereby the ownership of any portion of this plat shall be less than six thousand (6000) square feet for R-1 residence use, with a minimum lot width of sixty (60) feet. All lots in this plat are restricted to R-1 residence use, except tracts A and B, which are restricted to R-3 residence use, governed by and subject to restrictions, rules and regulations of King County Zoning Resolution No. 6494 and subsequent changes thereto by official County resolution.

ACKNOWLEDGMENT

STATE OF WASHINGTON } ss
COUNTY OF KING }
This is to certify that on this 12th day of June, A.D. 1947 before me the undersigned, a Notary Public, personally appeared Fritz D. Sutter, Helen L. Sutter, his wife, and J.A. Holmes, Mortgagee, to me known to be the individuals, who executed the above dedication, and each acknowledged the said instrument to be his free and voluntary act and deed for the uses and purposes therein mentioned.
IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above mentioned.

Oliver M. Sogitum
Notary Public in and for the
State of Washington
Residing in Seattle.



I hereby certify that the within plat of VIEW POINT PARK is duly approved by the KING COUNTY PLANNING COMMISSION this 23rd day of June, A.D. 1947.

Don A. Johnson
Chairman
J.P. Heath
Secretary
T.W. H. Neenan
Executive Officer

I hereby certify that the plat of View Point Park is based on an actual survey and subdivision of section 6, township 24 north, range 6 east, W.M. that the distances, courses and angles are shown there-on correctly; that the monuments have been set and lot and block corners staked correctly on the ground, or earnest money has been posted to covenant thereof; that I have fully complied with the provisions of the statutes and platting regulations.
General Engineering Co. Inc.

Date 16 June 1947 By *J. J. Olney*
Certificate No. 1785 Renewal No. 801

Examined and approved this 23rd day of June, A.D. 1947.

Taylor M. Greene
Chairman of the Board of
County Commissioners.

Examined and approved this 21st day of June, A.D. 1947.

SIGNATURES ILLEGIBLE DUE TO USE OF COLORED INKS
Co. Man Smith
County Road Engineer.

Attest: *Jessie L. Currie*
Clerk
Board of County Commissioners

3699936
Filed for the Record at the request of the King County Planning Commission this 27 day of June, A.D. 1947 at 22 minutes past 2 P.M. and recorded in Vol. 34 of Plats, Pages 33-34 Records of King County.

W.H. Williams
Deputy County Auditor

Robert A. Morris
County Auditor.



No. **237,037**
INDEFINITE TERM LEASE

THIS LEASE made this **1st** day of **April**, 19 **81**
between BURLINGTON NORTHERN INC., a Delaware corporation, hereinafter called "Lessor", and
CHARLES O. MEYER,
whose post office address is **2121 - Old East Lake Sammamish Road, Issaquah, Washington 98027**
hereinafter called "Lessee".

8305120495

WITNESSETH.

In consideration of the covenants hereinafter contained to be kept and performed by Lessee, Lessor hereby leases to Lessee upon the terms and conditions hereinafter set forth the following described premises situate in the City of **Monahon**, County of **King**, State of **Washington**.

All that part of the premises of the said Lessor as shown colored red on the print hereto attached, marked Exhibit "A" dated October 24, 1980, and made a part hereof.

SAVING AND RESERVING to Lessor, its successors and assigns, the right to construct, maintain and operate a railroad track or tracks or to construct, maintain and use or permit others to construct, maintain and use buildings or other structures for railroad purposes located or to be located upon any part of the above described premises not occupied by the buildings and structures hereinafter mentioned; to construct, maintain and use or permit to be constructed, maintained and used by others any existing or additional pipe, telephone, telegraph or power transmission line, or water or sewer system, or other such facilities, over, on or beneath the said premises; to make any change in grade or location of its railroad or any of its tracks, or to rearrange its station facilities, or to use the said premises or any part thereof for railroad purposes; to allow the placement of signs and signboards for commercial or other purposes upon the leased premises so long as the placement of such signs or signboards does not interfere with the operation of Lessee's business on said premises; and further saving and reserving to Lessor or its agent the right to enter thereon for any one or more of such purposes without payment to Lessee of any sum for damage of any nature which may be caused thereby.

Lessee hereby leases said premises from Lessor for the indefinite term hereof subject to the covenants and promises following, which Lessee agrees to observe and perform, to wit:

1. Lessee shall use and occupy said premises for the sole and exclusive purpose of constructing, maintaining, and operating thereon **lake access, recreational area and beautification.**

No other buildings, structures, additions, alterations or improvements shall be erected or made on the premises by Lessee or at the direction of Lessee, save with the express permission of Lessor in writing and at the sole cost of Lessee.

2. Lessee shall pay annually, in advance, as rental for said premises the sum of **One Hundred Twenty and No/100 Dollars (\$120.00).**

8305120495

...and as one of the material considerations of this lease without which the same would not be granted, that Lessee assumes all risk of loss, damage or destruction by fire to buildings or contents or to any other property, located upon or in proximity to said premises by Lessee, or by any other person with the consent or knowledge of Lessee, without regard to whether such fire be the result of negligence or misconduct of any person in the employ or service of Lessor or of defective appliances, engines or machinery, except to the premises of Lessor and to rolling stock belonging to Lessor or to others, and to shipments of third parties in the course of transportation. Lessee hereby indemnifies and agrees to protect Lessor from all such loss, damage or destruction to property, including claims and causes of action asserted against Lessor by any insurer of said property.

(b) Lessee also agrees to indemnify and hold harmless Lessor for loss, damage, injury or death from any act or omission of Lessee, Lessee's invitees, licensees, employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation while on or near said premises, and if any claim or liability, other than from fire, shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

(c) Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Lessor, its officers, employees or agents.

11. It is agreed that the provisions of paragraphs 5 and 10 are for the equal protection of any other railroad company or companies, including National Railroad Passenger Corporation (Amtrak), heretofore or hereafter granted the joint use of Lessor's property, of which said premises are a part.

12. (a) Without the written consent of Lessor, Lessee shall not assign this lease or any interest therein, or sublet, and no heir, executor, administrator, receiver, master, sheriff, trustee in bankruptcy, or other assignee by operation of law shall assign or sublet without such written consent.

(b) In the event of assignment of this lease, Lessor, having no advice to the contrary, shall at such time credit all unearned rental hereunder to the assignee. Any other disposition of unearned rental will be made by Lessor only upon the joint written request of both Lessee and Lessee's assignee at the time of submitting said assignment to Lessor for its consent.

13. If, because of any act or omission of Lessee, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the demised premises, Lessee shall, at its own cost and expense, cause the same to be discharged of record within thirty (30) days after written notice from Lessor to Lessee of the filing thereof; and Lessee shall indemnify and save harmless Lessor against and from all costs, liabilities, suits, penalties, claims and demands, including legal fees and court costs, resulting therefrom.

14. Each and all of the covenants and promises made by Lessee herein are material considerations herefor, and upon the breach or non-performance by Lessee of any of the said covenants or promises, Lessor, at its option, may re-enter said premises, or any part thereof in the name of the whole, upon ten (10) days' written notice to Lessee, and may have, repossess and enjoy the same as of its former estate, and may terminate this lease and all rights hereby granted. A waiver by Lessor of a default shall not be deemed a waiver of any subsequent default of Lessee. If the default shall consist of nonpayment of rental or taxes, or other charges, at the time of termination of this lease in accordance with the provisions of this clause, such nonpayment of rental and taxes shall, until paid, constitute a lien upon said structures, improvements and property owned by Lessee and the lien may be foreclosed according to law. Lessee shall not remove said structures, improvements or property until said rental, taxes or other charges are paid, unless directed to do so by Lessor.

15. Notwithstanding any requirement herein for payment of rental in advance for a period in excess of one month, it is further agreed that either party may terminate this lease at any time for any reason upon giving the other party not less than thirty (30) days' written notice of such termination; provided, however, that rent shall be paid by said Lessee to the date of termination fixed by said notice. Upon the date of termination of this lease, Lessee shall, at its own sole cost and expense, remove or cause to be removed all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities owned or used by Lessee or placed on, above or below the surface of the premises by Lessee or by any person, firm or corporation or former Lessee. Lessee agrees to restore and level the premises to a condition satisfactory to Lessor.

It is expressly understood by Lessee that until such time as the premises are surrendered to Lessor free and clear of all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities not belonging to Lessor and the premises are restored to a neat and orderly condition satisfactory to Lessor, Lessee shall be liable to Lessor for such rental, including taxes, as Lessor may from time to time determine. Lessee shall also be liable to Lessor for any and all losses and/or damages which Lessor may sustain or become liable for resulting from the failure of Lessee to restore the premises to a neat and orderly condition. Lessor may at its own sole election appropriate any property or improvements remaining on the demised premises for its own use without compensation to Lessee, or may dispose of any such property or improvements without any liability whatsoever to Lessee and charge Lessee for all cost and expense incidental to such removal.

16. All notices hereunder to be given by Lessor to Lessee may be effectually given by letter from Lessor or its agent or attorney forwarded by Certified Mail--Return Receipt Requested, postage prepaid, addressed to Lessee at Lessee's post office address above stated or at such address as Lessee may later give Lessor in writing.

17. All notices hereunder to be given by Lessee to Lessor may be effectually given by letter from Lessee or Lessee's agent or attorney forwarded by Certified Mail--Return Receipt Requested, postage prepaid, addressed to Lessor's Industrial Development and Property Management Department at 176 East Fifth Street, St. Paul, Minnesota 55101.

8305120498

19. Lessee accepts the leased premises subject to any and all existing primary, easements, leases, easements, railroad facilities, pipelines, telephone, telegraph, communications, power and signal lines or any other similar facilities, together with any future installations thereof provided such future installations do not unreasonably interfere with Lessee's use of the leased premises.

20. The invalidity or unenforceability of any provision of this lease shall not affect or impair any other provision.

21. Lessee reserves the right at any time and is presently permitting other parties to occupy and use said leased area in common with Lessee herein. Said other parties will be required or have executed a lease identical to the lease executed by Lessee herein; and all responsibilities required by the terms, conditions and provisions of this lease shall be borne equally by Lessee and said other parties.

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

IN WITNESS WHEREOF, the parties have executed this lease, in duplicate, the day and year first hereinafores written.

In Presence of:

Rede Ann [Signature]

BURLINGTON NORTHERN INC.

By A.W. Raoul
General Manager Leases

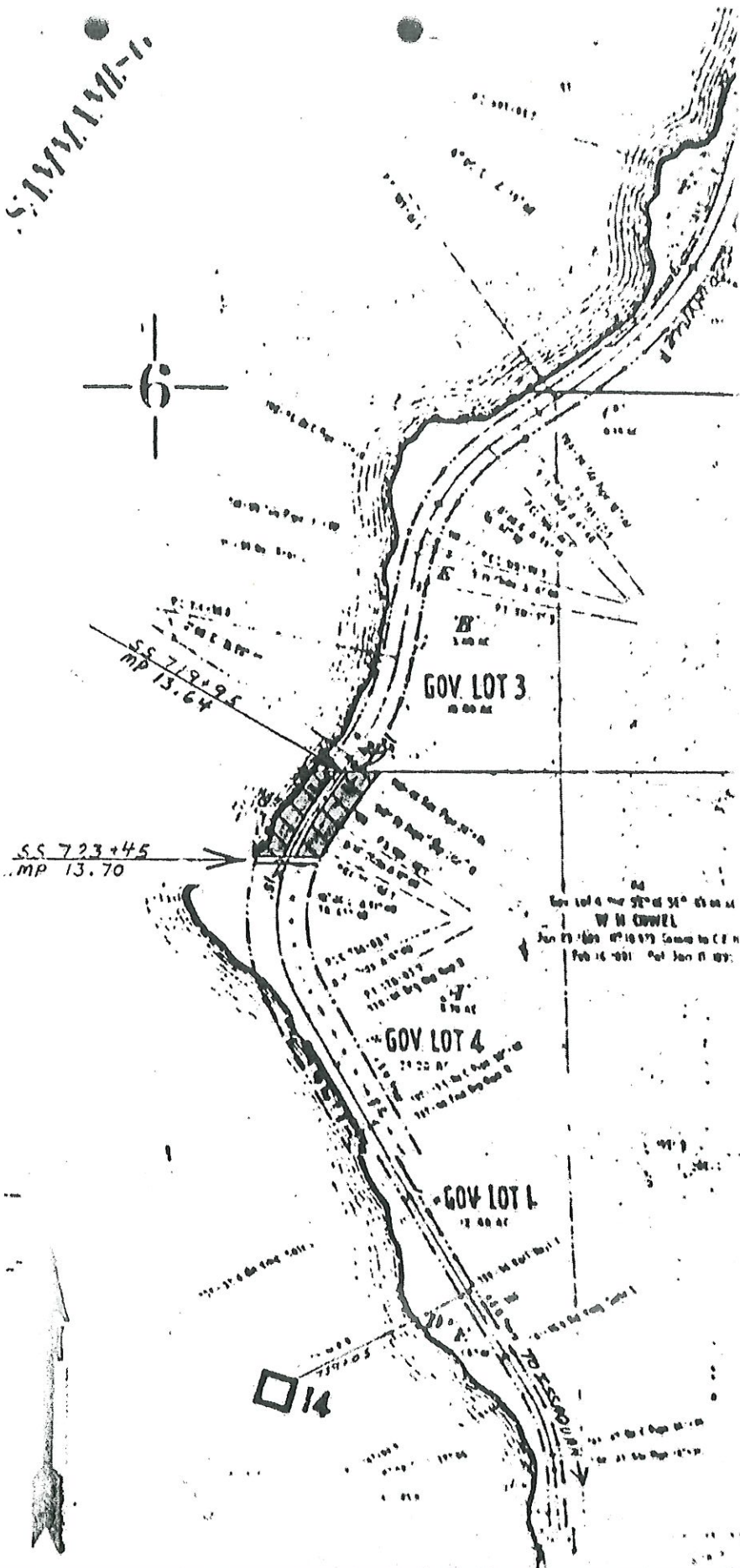
Charles O. Meyer
CHARLES O. MEYER

8305120498

RECORDS AND PLANS DIVISION
DISABILITY FOR FILM

CHARLES O. MEYER, JAMES H. HESS, JAMES G. LUND
FOR BEAUTIFICATION

EXHIBIT "A"
BURLINGTON NORTHERN INC.
MONTICELLO, WA.
OCT 24, 1930
SCALE 1 IN. = 400 FT.



No. 237,038

PRIVATE ROADWAY AND CROSSING AGREEMENT

AGREEMENT made this **1st** day of **April**, 19 **81**, between BURLINGTON NOR THE RN INC., a Delaware corporation, hereinafter called "Railroad", and **CHARLES O. MEYER,**

whose post office address is **2121 - Old East Lake Sammamish Road, Issaquah, Washington 98027**

, hereinafter called "Permittee."

WITNESSETH

WHEREAS, Permittee desires for Permittee's use the construction and maintenance upon the right of way of Railroad of a private **road crossing,**

hereinafter sometimes jointly referred to as the "roadway", and sometimes referred to as the "crossing" to be located at **survey station 723 plus 45 - Mile Post 13.70 at Monahan, King County, Washington**

as shown colored red upon the plan which is attached hereto and made a part hereof, marked Exhibit "A" dated **October 24, 1980**, and Railroad agrees to the construction and maintenance thereof and the use thereof by Permittee upon the following terms and conditions:

1. **Permittee shall, at his own cost and expense, maintain the roadway approaches.**

Railroad reserves the right at any time and is presently permitting other parties to use said road crossing in common with Permittee herein. Said other parties will be required to execute a permit identical to the permit executed by Permittee herein; and all responsibilities required by the terms, conditions and provisions of this permit shall be borne equally by Permittee and said other parties.

~~Permittee shall, at his own sole cost and expense, obtain and furnish to Railroad a policy of Public Liability and Property Damage Insurance as set out in Addendum attached hereto and made a part hereof.~~

2. Permittee shall, upon execution hereof, pay to Railroad for the license and permission hereby granted the sum of **Twenty-Five Dollars (\$25.00) for the first five (5) year period and for each subsequent five (5) years that this agreement remains in effect.**

3. Permittee shall, before any construction is begun, also pay to Railroad the sum of

the agreed cost of the work and materials to be furnished by Railroad at the expense of Permittee, including cost of removal of said roadway.

Permittee shall also pay to Railroad from time to time the cost of the maintenance, additions and betterments done by Railroad herein agreed to be borne by Permittee, within twenty (20) days after bills are rendered therefor, **and such costs shall be divided equally among Permittee herein and any other users of said road crossing as covered by paragraph No. 1 above.**

4. Should the right of way be now or hereafter fenced at the location described, Permittee shall construct, maintain, and keep repaired at Permittee's expense, farm crossing gates in a manner satisfactory to the Division Superintendent of Railroad, and said gates shall be kept closed, except when necessary to be open for travel. Permittee agrees to assume all damages of every kind whatsoever resulting from Permittee's failure to keep gates closed, or for failure to keep the same in proper repair, as agreed in this paragraph.

8305120498

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7. Permittee shall not place any structure or other obstruction in the roadway or crossing, or any other structure, which may interfere with the view of trains approaching in either direction.

8. Permittee shall not permit said crossing to be used as a public roadway.

9. Permittee shall not permit any structure, sign, fence and logs removed any vegetation at said crossing which may interfere with the view of trains approaching in either direction.

10. The permission hereby granted shall neither be or be deemed or construed to be a grant of title nor shall it constitute ownership by Permittee of the roadway or that portion of the right of way of Railroad upon which the roadway is located.

11. Permittee shall and hereby does release and discharge Railroad of and from any and all liability for damage to or destruction of the said roadway, or any property of Permittee thereon, and shall not hereby assume any and all liability for injury to or death of persons, or loss of or damage to property in any manner arising from or during the construction, use, maintenance, repair or removal of said roadway, however such injury, death, loss, damage or destruction aforesaid may occur or be caused, and shall and hereby does indemnify and save harmless Railroad 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 Railroad any suits or actions at law brought against it on account of any such personal injuries, death or damage to property, and to pay and satisfy any final judgment that may be rendered against the Railroad in any such suit or action. The liability assumed by Permittee herein shall not be affected or diminished by the fact, if it be a fact, that any such suit or action brought against Railroad may arise out of negligence of Railroad, its officers, agents, servants or employees, or be contributed to by such negligence. **Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Railroad, its officers, employees or agents.**

12. It is agreed that the provisions of paragraph 9 are for the equal protection of any other railroad company or companies, including National Railroad Passenger Corporation (Amtrak), heretofore or hereafter granted the joint use of Railroad's property, of which said premises are a part.

13. In the event Railroad shall require the use of its premises occupied by the said roadway or any part thereof for any purpose whatsoever, or if Permittee shall fail to keep and perform any of the terms and conditions of this agreement herein agreed by Permittee to be kept and performed, Railroad shall have the right to terminate this agreement at any time upon giving to Permittee thirty (30) days' written notice of its intention so to do and shall, upon expiration of said thirty (30) days, have the right to remove said crossing and barricade said roadway at the cost and expense of Permittee. Said notice shall be good if served personally upon Permittee or posted upon the premises or deposited postpaid in a United States Post Office, addressed to Permittee at Permittee's post office address above stated. No portion of any payments made hereunder will be refunded upon termination of this agreement.

14. Permittee shall not assign or transfer this agreement without first having obtained the written consent of Railroad.

15. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective executors, administrators, successors, and assigns.

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

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

In presence of:

BURLINGTON NORTHERN INC.

By A. J. Stouff
General Manager Leases

x Charles O. Meyer
CHARLES O. MEYER

No. 237,039
INDEFINITE TERM LEASE

THIS LEASE made this 1st day of April, 19 61,
between BURLINGTON NORTHERN INC., a Delaware corporation, hereinafter called "Lessor", and
JAMES H. HESS,

whose post office address is 2201 - 190th Place S. E., Issaquah, Washington 98027
hereinafter called "Lessee",

WITNESSETH:

In consideration of the covenants hereinafter contained to be kept and performed by Lessee, Lessor hereby
leases to Lessee upon the terms and conditions hereinafter set forth the following described premises situate in the
City of Manahan, County of King, State of Washington

All that part of the premises of the said Lessor as shown colored red on the print
hereto attached, marked Exhibit "A" dated October 26, 1960, and made a part hereof.

SAVING AND RESERVING to Lessor, its successors and assigns, the right to construct, maintain and
operate a railroad track or tracks or to construct, maintain and use or permit others to construct, maintain and use
buildings or other structures for railroad purposes located or to be located upon any part of the above-described
premises not occupied by the buildings and structures hereinafter mentioned; to construct, maintain and use or
permit to be constructed, maintained and used by others any existing or additional pipe, telephone, telegraph or
power transmission line, or water or sewer system, or other such facilities, over, on or beneath the said premises; to
make any change in grade or location of its railroad or any of its tracks, or to rearrange its station facilities, or to
use the said premises or any part thereof for railroad purposes; to allow the placement of signs and signboards for
commercial or other purposes upon the leased premises so long as the placement of such signs or signboards does
not interfere with the operation of Lessee's business on said premises; and further saving and reserving to Lessor or
its agent the right to enter thereon for any one or more of such purposes without payment to Lessee of any sum
for damage of any nature which may be caused thereby.

Lessee hereby leases said premises from Lessor for the indefinite term hereof subject to the covenants and
promises following, which Lessee agrees to observe and perform, to-wit:

1. Lessee shall use and occupy said premises for the sole and exclusive purpose of ~~constructing,~~
~~maintaining, and operating thereon a~~ lake access, recreational area and beautification.

No other buildings, structures, additions, alterations or improvements shall be erected or made on the premises by
Lessee or at the direction of Lessee, save with the express permission of Lessor in writing and at the sole cost of
Lessee.

2. Lessee shall pay annually, in advance, as rental for said premises the sum of One Hundred Twenty
and No/100 Dollars (\$120.00).

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The failing or acceptance by lessor of any advance rental hereunder shall not imply any definite term to this lease nor will it serve to extend this lease for the period of time covered by such rental payment or otherwise operate to restrict either party hereto from terminating this lease in accordance with the provisions of paragraph 15.

3. Lessor reserves the right to stop or suspend operations at any time while this lease remains in effect.

4. (a) Lessee shall pay all taxes, license fees, and other charges (see paragraph 4 (b) below, for payment of special assessments for public improvements) which may become due or which may be assessed against said premises, against Lessee, against the business conducted on said premises or against any and all improvements placed thereon during or for the period of the actual term hereof, even though such taxes, license fees or other charges may not become due and payable until after expiration or cancellation of this lease. Lessee shall reimburse Lessor for any such taxes, license fees or other charges which may be paid by Lessor promptly upon the presentation by Lessor of bills for the amount thereof, and in default of such reimbursement, all sums so paid by Lessor shall be deemed to be and shall be treated as additional rental and recoverable as such hereunder.

(b) In the event the premises hereby demised, or any part thereof, shall be subject to any special assessment for any public improvement or improvements and said assessment is in the amount of Five Hundred Dollars (\$500.00) or less, Lessee shall reimburse Lessor in full, promptly upon the presentation by Lessor of bills for the amount thereof. In the event the amount of said assessment exceeds Five Hundred Dollars (\$500.00), the rental herein reserved and stipulated to be paid by Lessee shall be automatically increased by an amount equal to **thirteen percent (13%)** per annum of the total amount of said assessment.

5. Lessee shall not place, or permit to be placed, or to remain, any material, structure, pole or other obstruction within 8½ feet laterally of the center line or within 23 feet vertically from the top of the rail of any track; provided that if by statute or order of competent public authority greater clearances shall be required than those provided for in this paragraph 5, then Lessee shall strictly comply with such statute or order. However, vertical or lateral clearances which are less than those hereinbefore required to be observed but are in compliance with statutory requirements will not be or be deemed to be a violation of this clause. Lessee agrees to indemnify Lessor and save it harmless from and against any and all claims, demands, expenses, costs and judgments arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of any breach of the foregoing or any other covenant contained in this agreement.

Should either or both the lateral and vertical clearances hereinbefore required to be observed be permitted to be reduced by order of competent public authority, Lessee hereby agrees to strictly comply with the terms of any such order and indemnify and hold harmless Lessor from and against any and all claims, demands, expenses, costs and judgments arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of or as a result of any such reduced clearance.

Lessor's operations over the track with knowledge of an unauthorized reduced clearance shall not be or be deemed to be a waiver of the foregoing covenants of Lessee contained in this clause or of Lessor's right to recover for such damages to property or injury to or death of persons that may result therefrom.

6. Lessee, at Lessee's sole cost and expense, shall install and maintain adequate facilities for fire protection in all buildings and structures upon said premises. Lessee also, at Lessee's sole cost and expense, shall observe and comply with all the rules, regulations and orders of any duly constituted authority and of any board of fire underwriters having jurisdiction of said premises and all provisions of any fire insurance policy covering said premises.

7. Lessee shall not permit the existence of any nuisance on said premises; shall maintain and keep the same in proper, clean, safe and sanitary condition and free and clear of any explosive, flammable or combustible material which would increase or tend to increase the risk of fire, except for such material as may be necessary to Lessee's business; and further, Lessee shall keep, observe and comply with all federal, state and local regulations, ordinances and laws, and with the regulations of any duly constituted legal authority having jurisdiction of the premises, and at Lessee's sole cost shall make any and all improvements, alterations, repairs and additions and install all appliances required on said premises by or under any such regulations, ordinances or laws. If, as a result of Lessee's occupancy of the premises and its operations hereunder, any such regulation, ordinance or law is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from, or connected with such violation or violations. Lessee shall not place or permit to be placed any advertising matter upon any part of said premises or upon any improvements thereon except such as is necessary to advertise Lessee's own business.

8. Lessee shall comply with all applicable laws and ordinances and all rules, regulations and requirements of any governmental authority promulgated thereunder controlling environmental standards and conditions on the premises. If, as a result of Lessee's occupancy of the premises and its operations hereunder, any such law, ordinance, rule, regulation or requirement is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from or connected with such violation or violations.

9. Lessee, at Lessee's sole cost and expense, shall keep the premises hereby demised in good condition and shall make all repairs and renewals that from time to time may be necessary to keep any improvements which may be located thereon in good condition and repair and ready and fit for occupancy.

10. (a) It is understood by the parties that said premises are in dangerous proximity to the tracks of Lessor and that property on said premises will be in danger of injury or destruction by fire incident to the operation, maintenance or improvement of the railway, and Lessee accepts this lease subject to such dangers. It is therefore

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agreed, as one of the material considerations of this lease without which the same would not be granted, that Lessee assumes all risk of loss, damage or destruction by fire to buildings or contents or to any other property brought upon or in proximity to said premises by Lessee, or by any other person with the consent or knowledge of Lessee, without regard to whether such fire be the result of negligence or misconduct of any person in the employ or service of Lessor or of defective appliances, engines or machinery, except to the premises of Lessor and to rolling stock belonging to Lessor or to others, and to shipments of third parties in the course of transportation. Lessee hereby indemnifies and agrees to protect Lessor from all such loss, damage or destruction to property, including claims and causes of action asserted against Lessor by any insurer of said property.

(b) Lessee also agrees to indemnify and hold harmless Lessor for loss, damage, injury or death from any act or omission of Lessee, Lessee's invitees, licensees, employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation while on or near said premises; and if any claim or liability, other than from fire, shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

(c) Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Lessor, its officers, employees or agents.

11. It is agreed that the provisions of paragraphs 5 and 10 are for the equal protection of any other railroad company or companies, including National Railroad Passenger Corporation (Amtrak), heretofore or hereafter granted the joint use of Lessor's property, of which said premises are a part.

12. (a) Without the written consent of Lessor, Lessee shall not assign this lease or any interest therein, or sublet, and no heir, executor, administrator, receiver, master, sheriff, trustee in bankruptcy, or other assignee by operation of law shall assign or sublet without such written consent.

(b) In the event of assignment of this lease, Lessor, having no advice to the contrary, shall at such time credit all unearned rental hereunder to the assignee. Any other disposition of unearned rental will be made by Lessor only upon the joint written request of both Lessee and Lessee's assignee at the time of submitting said assignment to Lessor for its consent.

13. If, because of any act or omission of Lessee, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the demised premises, Lessee shall, at its own cost and expense, cause the same to be discharged of record within thirty (30) days after written notice from Lessor to Lessee of the filing thereof; and Lessee shall indemnify and save harmless Lessor against and from all costs, liabilities, suits, penalties, claims and demands, including legal fees and court costs, resulting therefrom.

14. Each and all of the covenants and promises made by Lessee herein are material considerations herefor, and upon the breach or non-performance by Lessee of any of the said covenants or promises, Lessor, at its option, may re-enter said premises, or any part thereof in the name of the whole, upon ten (10) days' written notice to Lessee, and may have, repossess and enjoy the same as of its former estate, and may terminate this lease and all rights hereby granted. A waiver by Lessor of a default shall not be deemed a waiver of any subsequent default of Lessee. If the default shall consist of nonpayment of rental or taxes, or other charges, at the time of termination of this lease in accordance with the provisions of this clause, such nonpayment of rental and taxes shall, until paid, constitute a lien upon said structures, improvements and property owned by Lessee and the lien may be foreclosed according to law. Lessee shall not remove said structures, improvements or property until said rental, taxes or other charges are paid, unless directed to do so by Lessor.

15. Notwithstanding any requirement herein for payment of rental in advance for a period in excess of one month, it is further agreed that either party may terminate this lease at any time for any reason upon giving the other party not less than thirty (30) days' written notice of such termination; provided, however, that rent shall be paid by said Lessee to the date of termination fixed by said notice. Upon the date of termination of this lease, Lessee shall, at its own sole cost and expense, remove or cause to be removed all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities owned or used by Lessee or placed on, above or below the surface of the premises by Lessee or by any person, firm or corporation or former Lessee. Lessee agrees to restore and level the premises to a condition satisfactory to Lessor.

It is expressly understood by Lessee that until such time as the premises are surrendered to Lessor free and clear of all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities not belonging to Lessor and the premises are restored to a neat and orderly condition satisfactory to Lessor, Lessee shall be liable to Lessor for such rental, including taxes, as Lessor may from time to time determine. Lessee shall also be liable to Lessor for any and all losses and/or damages which Lessor may sustain or become liable for resulting from the failure of Lessee to restore the premises to a neat and orderly condition. Lessor may at its own sole election appropriate any property or improvements remaining on the demised premises for its own use without compensation to Lessee, or may dispose of any such property or improvements without any liability whatsoever to Lessee and charge Lessee for all cost and expense incidental to such removal.

16. All notices hereunder to be given by Lessor to Lessee may be effectually given by letter from Lessor or its agent or attorney forwarded by Certified Mail--Return Receipt Requested, postage prepaid, addressed to Lessee at Lessee's post office address above stated or at such address as Lessee may later give Lessor in writing.

17. All notices hereunder to be given by Lessee to Lessor may be effectually given by letter from Lessee or Lessee's agent or attorney forwarded by Certified Mail--Return Receipt Requested, postage prepaid, addressed to Lessor's Industrial Development and Property Management Department at 176 East Fifth Street, St. Paul, Minnesota 55101.

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

19. Lessee accepts the leased premises subject to any and all existing permits, licenses, leases, easements, railroad facilities, pipelines, telephone, telegraph, communication, power and signal lines or any other similar facilities, together with any future installations thereof provided such future installations do not unreasonably interfere with Lessee's use of the leased premises.

20. The invalidity or unenforceability of any provision of this lease shall not affect or impair any other provision.

21. Lessor reserves the right at any time and is presently permitting other parties to occupy and use said leased area in common with Lessee herein. Said other parties will be required or have executed a lease identical to the lease executed by Lessee herein; and all responsibilities required by the terms, conditions and provisions of this lease shall be borne equally by Lessee and said other parties.

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

IN WITNESS WHEREOF, the parties have executed this lease, in duplicate, the day and year first hereinabove written.

In Presence of:

BURLINGTON NORTHERN INC.

By _____
General Manager Leases

*This agreement has been
signed by the parties thereto*

X
JAMES H. HARRIS

WATERWAYS



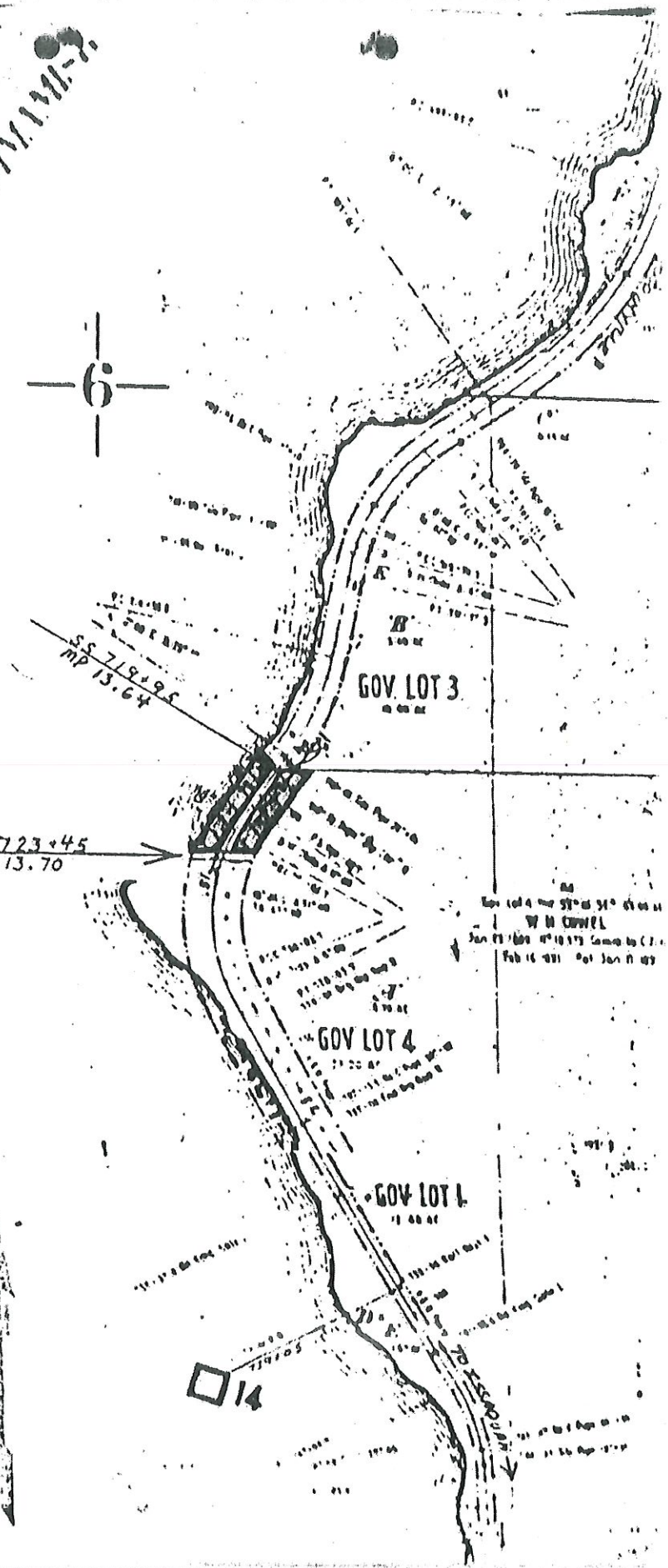
CHARLES O. MEYER, JAMES H. HESS, JAMES G. LUND
FOR BEAUTIFICATION

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SS 723+45
MP 13.70



EXHIBIT "A"
BURLINGTON NORTHERN INC.
MIDMORGHAN, MA.
OCT 24, 1933
SCALE 1 IN. = 420 FT.



Exp. Lot 4 on St. at 34° 0' 0" N
W. H. COWELL
Jan 21 1898 No 10 173 Comm. to C. I.
Feb 16 1901 Oct Jan 11 1899

No. 237,040

PRIVATE ROADWAY AND CROSSING AGREEMENT

AGREEMENT made this 1st day of April, 1961, between BURLINGTON NORTHERN INC., a Delaware corporation, hereinafter called "Railroad", and JAMES H. HENS,

whose post office address is 2201 - 190th Place S. E., Issaquah, Washington 98027

hereinafter called "Permittee,"

WITNESSETH:

WHEREAS, Permittee desires for Permittee's use the construction and maintenance upon the right of way of Railroad of a private road crossing,

hereinafter sometimes jointly referred to as the "roadway", and sometimes referred to as the "crossing" to be located at survey station TRJ plus 45 - Mile Post 13.70 at Monahan, King County, Washington

as shown colored red upon the plan which is attached hereto and made a part hereof, marked Exhibit "A" dated October 23, 1960, and Railroad agrees to the construction and maintenance thereof and the use thereof by Permittee upon the following terms and conditions:

- 1. Permittee shall, at his own cost and expense, maintain the roadway approaches.

Railroad reserves the right at any time and is presently permitting other parties to use said road crossing in common with Permittee herein. Said other parties will be required to execute a permit identical to the permit executed by Permittee herein; and all responsibilities required by the terms, conditions and provisions of this permit shall be borne equally by Permittee and said other parties.

Permittee shall, at his own sole cost and expense, obtain and furnish to Railroad a policy of Public Liability and Property Damage Insurance as set out in Addendum attached hereto and made a part hereof.

- 2. Permittee shall, upon execution hereof, pay to Railroad for the license and permission hereby granted the sum of Twenty-Five Dollars (\$25.00) for the first five (5) year period and for each subsequent five (5) years that this agreement remains in effect.

- 3. Permittee shall, before any construction is begun, also pay to Railroad the sum of _____

the agreed cost of the work and materials to be furnished by Railroad at the expense of Permittee, including cost of removal of said roadway.

Permittee shall also pay to Railroad from time to time the cost of the maintenance, additions and betterments done by Railroad herein agreed to be borne by Permittee, within twenty (20) days after bills are rendered therefor, and such costs shall be divided equally among Permittee herein and any other users of said road crossing as covered by paragraph No. 1 above.

- 4. Should the right of way be now or hereafter fenced at the location described, Permittee shall construct, maintain, and keep repaired at Permittee's expense, farm crossing gates in a manner satisfactory to the Division Superintendent of Railroad, and said gates shall be kept closed, except when necessary to be open for travel. Permittee agrees to assume all damages of every kind whatsoever resulting from Permittee's failure to keep gates closed, or for failure to keep the same in proper repair, as agreed in this paragraph.

Table with columns: CARD, NAME, DATE, and other fields.

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5. Permittee shall at all times keep the flangeways of said crossing free and clear of all snow, dirt or any other obstructions, whatsoever which may accumulate by virtue of vehicles or farm machinery crossing

6. The crossing hereby granted shall not be construed as a public crossing.

7. The use of Permittee's equipment shall remove and keep removed any impediment at said crossing which may interfere with the safe of trains approaching in either direction.

8. The permission hereby granted shall neither be or be deemed or construed to be a grant of land nor shall it constitute ownership by Permittee of the roadway or that portion of the right of way of Railroad upon which the roadway is located.

9. Permittee shall and hereby does release and discharge Railroad of and from any and all liability for damage to or destruction of the said roadway, or any property of Permittee thereon; and shall and hereby does assume any and all liability for injury to or death of persons, or loss of or damage to property in any manner arising from or during the construction, use, maintenance, repair or removal of said roadway, however such injury, death, loss, damage or destruction aforesaid may occur or be caused; and shall and hereby does indemnify and save harmless Railroad 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 Railroad any suits or actions at law brought against it on account of any such personal injuries, death or damage to property, and to pay and satisfy any final judgment that may be rendered against the Railroad in any such suit or action. The liability assumed by Permittee herein shall not be affected or diminished by the fact, if it be a fact, that any such suit or action brought against Railroad may arise out of negligence of Railroad, its officers, agents, servants or employees, or be contributed to by such negligence. **Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Railroad, its officers, employees or agents.**

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10. It is agreed that the provisions of paragraph 9 are for the equal protection of any other railroad company or companies, including National Railroad Passenger Corporation (Amtrak), heretofore or hereafter granted the joint use of Railroad's property, of which said premises are a part.

11. In the event Railroad shall require the use of its premises occupied by the said roadway or any part thereof for any purpose whatsoever, or if Permittee shall fail to keep and perform any of the terms and conditions of this agreement herein agreed by Permittee to be kept and performed, Railroad shall have the right to terminate this agreement at any time upon giving to Permittee thirty (30) days' written notice of its intention so to do and shall, upon expiration of said thirty (30) days, have the right to remove said crossing and barricade said roadway at the cost and expense of Permittee. Said notice shall be good if served personally upon Permittee or posted upon the premises or deposited postpaid in a United States Post Office, addressed to Permittee at Permittee's post office address above stated. No portion of any payments made hereunder will be refunded upon termination of this agreement.

12. Permittee shall not assign or transfer this agreement without first having obtained the written consent of Railroad.

13. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective executors, administrators, successors, and assigns.

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

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

In presence of:

BURLINGTON NORTHERN INC.

By _____

General Manager Leases

This agreement has been signed by the parties thereto

X _____

JAMES H. HESS

No 237,041
INDEFINITE TERM LEASE

THIS LEASE made this 1st day of April, 19 81
between BURLINGTON NORTHERN INC., a Delaware corporation, hereinafter called "Lessor", and
JAMES C. LUND and **DOLORES A. LUND**
and
whose post office address is 2227 192nd Street S. E., Issaquah, Washington 98027
hereinafter called "Lessee".

WITNESSETH:

In consideration of the covenants hereinafter contained to be kept and performed by Lessee, Lessor hereby leases to Lessee upon the terms and conditions hereinafter set forth the following described premises situate in the City of Monahan, County of King, State of Washington

All that part of the premises of the said Lessor as shown colored red on the print hereto attached, marked Exhibit "A" dated October 24, 1980, and made a part hereof.

SAVING AND RESERVING to Lessor, its successors and assigns, the right to construct, maintain and operate a railroad track or tracks or to construct, maintain and use or permit others to construct, maintain and use buildings or other structures for railroad purposes located or to be located upon any part of the above-described premises not occupied by the buildings and structures hereinafter mentioned; to construct, maintain and use or permit to be constructed, maintained and used by others any existing or additional pipe, telephone, telegraph or power transmission line, or water or sewer system, or other such facilities, over, on or beneath the said premises; to make any change in grade or location of its railroad or any of its tracks, or to rearrange its station facilities, or to use the said premises or any part thereof for railroad purposes; to allow the placement of signs and signboards for commercial or other purposes upon the leased premises so long as the placement of such signs or signboards does not interfere with the operation of Lessee's business on said premises; and further saving and reserving to Lessor or its agent the right to enter thereon for any one or more of such purposes without payment to Lessee of any sum for damage of any nature which may be caused thereby.

Lessee hereby leases said premises from Lessor for the indefinite term hereof subject to the covenants and promises following, which Lessee agrees to observe and perform, to-wit:

1. Lessee shall use and occupy said premises for the sole and exclusive purpose of ~~constructing, maintaining, and operating~~ thereon a **lake access, recreational area and beautification.**

No other buildings, structures, additions, alterations or improvements shall be erected or made on the premises by Lessee or at the direction of Lessee, save with the express permission of Lessor in writing and at the sole cost of Lessee.

2. Lessee shall pay annually, in advance, as rental for said premises the sum of **One Hundred Twenty and No/100 Dollars (\$120.00).**

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The term "rent" as used in this lease shall not imply any reference to the amount of rent to be paid for the period of time covered by such rent if payment or otherwise violate to any other provisions hereof from termination this lease in accordance with the provisions of paragraph 15

3. Lessor reserves the right to change the rental stipulated herein at any time while this lease remains in effect.

4. (a) Lessee shall pay all taxes, license fees and other charges (see paragraph 4 (b) below, for payment of special assessments for public improvements) which may become due or which may be assessed against said premises, against Lessee, against the business conducted on said premises or against any and all improvements placed thereon during or for the period of the actual term hereof, even though such taxes, license fees or other charges may not become due and payable until after expiration or cancellation of this lease. Lessee shall reimburse Lessor for any such taxes, license fees or other charges which may be paid by Lessor promptly upon the presentation by Lessor of bills for the amount thereof, and in default of such reimbursement, all sums so paid by Lessor shall be deemed to be and shall be treated as additional rental and recoverable as such hereunder.

(b) In the event the premises hereby demised, or any part thereof, shall be subject to any special assessment for any public improvement or improvements and said assessment is in the amount of Five Hundred Dollars (\$500.00) or less, Lessee shall reimburse Lessor in full, promptly upon the presentation by Lessor of bills for the amount thereof. In the event the amount of said assessment exceeds Five Hundred Dollars (\$500.00), the rental herein reserved and stipulated to be paid by Lessee shall be automatically increased by an amount equal to **thirteen percent (13%)** per annum of the total amount of said assessment.

5. Lessee shall not place or permit to be placed, or to remain, any material, structure, pole or other obstruction within 8 1/2 feet laterally of the center line or within 23 feet vertically from the top of the rail of any track; provided that if by statute or order of competent public authority greater clearances shall be required than those provided for in this paragraph 5, then Lessee shall strictly comply with such statute or order. However, vertical or lateral clearances which are less than those hereinbefore required to be observed but are in compliance with statutory requirements will not be or be deemed to be a violation of this clause. Lessee agrees to indemnify Lessor and save it harmless from and against any and all claims, demands, expenses, costs and judgments arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of any breach of the foregoing or any other covenant contained in this agreement.

Should either or both the lateral and vertical clearances hereinbefore required to be observed be permitted to be reduced by order of competent public authority, Lessee hereby agrees to strictly comply with the terms of any such order and indemnify and hold harmless Lessor from and against any and all claims, demands, expenses, costs and judgments arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of or as a result of any such reduced clearance.

Lessor's operations over the track with knowledge of an unauthorized reduced clearance shall not be or be deemed to be a waiver of the foregoing covenants of Lessee contained in this clause or of Lessor's right to recover for such damages to property or injury to or death of persons that may result therefrom.

6. Lessee, at Lessee's sole cost and expense, shall install and maintain adequate facilities for fire protection in all buildings and structures upon said premises. Lessee also, at Lessee's sole cost and expense, shall observe and comply with all the rules, regulations and orders of any duly constituted authority and of any board of fire underwriters having jurisdiction of said premises and all provisions of any fire insurance policy covering said premises.

7. Lessee shall not permit the existence of any nuisance on said premises; shall maintain and keep the same in proper, clean, safe and sanitary condition and free and clear of any explosive, flammable or combustible material which would increase or tend to increase the risk of fire, except for such material as may be necessary to Lessee's business; and further, Lessee shall keep, observe and comply with all federal, state and local regulations, ordinances and laws, and with the regulations of any duly constituted legal authority having jurisdiction of the premises, and at Lessee's sole cost shall make any and all improvements, alterations, repairs and additions and install all appliances required on said premises by or under any such regulations, ordinances or laws. If, as a result of Lessee's occupancy of the premises and its operations hereunder, any such regulation, ordinance or law is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from, or connected with such violation or violations. Lessee shall not place or permit to be placed any advertising matter upon any part of said premises or upon any improvements thereon except such as is necessary to advertise Lessee's own business.

8. Lessee shall comply with all applicable laws and ordinances and all rules, regulations and requirements of any governmental authority promulgated thereunder controlling environmental standards and conditions on the premises. If, as a result of Lessee's occupancy of the premises and its operations hereunder, any such law, ordinance, rule, regulation or requirement is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from or connected with such violation or violations.

9. Lessee, at Lessee's sole cost and expense, shall keep the premises hereby demised in good condition and shall make all repairs and renewals that from time to time may be necessary to keep any improvements which may be located thereon in good condition and repair and ready and fit for occupancy.

10. (a) It is understood by the parties that said premises are in dangerous proximity to the tracks of Lessor and that property on said premises will be in danger of injury or destruction by fire incident to the operation, maintenance or improvement of the railway, and Lessee accepts this lease subject to such dangers. It is therefore

being as one of the material considerations of this lease without which the same would not be granted, that Lessee assumes all risk of loss, damage or destruction by fire to buildings or contents of or to any other property brought upon or in proximity to said premises by Lessee, or by any other person with the consent or knowledge of Lessee, without regard to whether such fire be the result of negligence or misconduct of any person in the entry or service of Lessor or of defective appliances, engines or machinery, except to the premises of Lessor and to rolling stock belonging to Lessor or to others, and to shipments of third parties in the course of transportation. Lessor hereby indemnifies and agrees to protect Lessor from all such loss, damage or destruction to property, including claims and causes of action asserted against Lessor by any insurer of said property.

(b) Lessee also agrees to indemnify and hold harmless Lessor for loss, damage, injury or death from any act or omission of Lessee, Lessee's invitees, licensees, employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation while on or near said premises; and if any claim or liability, other than from fire, shall arise from the joint or concurring negligence of both parties hereto, it shall be borne by them equally.

(c) Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Lessor, its officers, employees or agents.

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11. It is agreed that the provisions of paragraphs 5 and 10 are for the equal protection of any other railroad company or companies, including National Railroad Passenger Corporation (Amtrak), heretofore or hereafter granted the joint use of Lessor's property, of which said premises are a part.

12. (a) Without the written consent of Lessor, Lessee shall not assign this lease or any interest therein, or sublet, and no heir, executor, administrator, receiver, master, sheriff, trustee in bankruptcy, or other assignee by operation of law shall assign or sublet without such written consent.

(b) In the event of assignment of this lease, Lessor, having no advice to the contrary, shall at such time credit all unearned rental hereunder to the assignee. Any other disposition of unearned rental will be made by Lessor only upon the joint written request of both Lessee and Lessee's assignee at the time of submitting said assignment to Lessor for its consent.

13. If, because of any act or omission of Lessee, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Lessor or any portion of the demised premises, Lessee shall, at its own cost and expense, cause the same to be discharged of record within thirty (30) days after written notice from Lessor to Lessee of the filing thereof; and Lessee shall indemnify and save harmless Lessor against and from all costs, liabilities, suits, penalties, claims and demands, including legal fees and court costs, resulting therefrom.

14. Each and all of the covenants and promises made by Lessee herein are material considerations hereof, and upon the breach or non-performance by Lessee of any of the said covenants or promises, Lessor, at its option, may re-enter said premises, or any part thereof in the name of the whole, upon ten (10) days' written notice to Lessee, and may have, repossess and enjoy the same as of its former estate, and may terminate this lease and all rights hereby granted. A waiver by Lessor of a default shall not be deemed a waiver of any subsequent default of Lessee. If the default shall consist of nonpayment of rental or taxes, or other charges, at the time of termination of this lease in accordance with the provisions of this clause, such nonpayment of rental and taxes shall, until paid, constitute a lien upon said structures, improvements and property owned by Lessee and the lien may be foreclosed according to law. Lessee shall not remove said structures, improvements or property until said rental, taxes or other charges are paid, unless directed to do so by Lessor.

15. Notwithstanding any requirement herein for payment of rental in advance for a period in excess of one month, it is further agreed that either party may terminate this lease at any time for any reason upon giving the other party not less than thirty (30) days' written notice of such termination; provided, however, that rent shall be paid by said Lessee to the date of termination fixed by said notice. Upon the date of termination of this lease, Lessee shall, at its own sole cost and expense, remove or cause to be removed all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities owned or used by Lessee or placed on, above or below the surface of the premises by Lessee or by any person, firm or corporation or former Lessee. Lessee agrees to restore and level the premises to a condition satisfactory to Lessor.

It is expressly understood by Lessee that until such time as the premises are surrendered to Lessor free and clear of all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities not belonging to Lessor and the premises are restored to a neat and orderly condition satisfactory to Lessor, Lessee shall be liable to Lessor for such rental, including taxes, as Lessor may from time to time determine. Lessee shall also be liable to Lessor for any and all losses and/or damages which Lessor may sustain or become liable for resulting from the failure of Lessee to restore the premises to a neat and orderly condition. Lessor may at its own sole election appropriate any property or improvements remaining on the demised premises for its own use without compensation to Lessee, or may dispose of any such property or improvements without any liability whatsoever to Lessee and charge Lessee for all cost and expense incidental to such removal.

16. All notices hereunder to be given by Lessor to Lessee may be effectually given by letter from Lessor or its agent or attorney forwarded by Certified Mail--Return Receipt Requested, postage prepaid, addressed to Lessee at Lessee's post office address above stated or at such address as Lessee may later give Lessor in writing.

17. All notices hereunder to be given by Lessee to Lessor may be effectually given by letter from Lessee or Lessee's agent or attorney forwarded by Certified Mail--Return Receipt Requested, postage prepaid, addressed to Lessor's Industrial Development and Property Management Department at 176 East Fifth Street, St. Paul, Minnesota 55101.

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

19. Lessee accepts the leased premises subject to any and all existing permits, licenses, leases, easements, railroad liens, easements, pipelines, telephone, telegraph, communication, power and signal lines or any other similar facilities, together with any future installations thereof provided such future installations do not unreasonably interfere with Lessee's use of the leased premises.

20. The invalidity or unenforceability of any provision of this lease shall not affect or impair any other provision.

21. Lessor reserves the right at any time and is presently permitting other parties to occupy and use said leased area in common with Lessee herein. Said other parties will be required or have executed a lease identical to the lease executed by Lessee herein; and all responsibilities required by the terms, conditions and provisions of this lease shall be borne equally by Lessee and said other parties.

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

IN WITNESS WHEREOF, the parties have executed this lease, in duplicate, the day and year first hereinabove written.

In Presence of:

M. M. Chase

BURLINGTON NORTHERN INC.

By A. W. Drouil
General Manager Leases

Dolores A. Lund
DOLORES A. LUND

X James G. Lund
JAMES G. LUND

No 237,042

PRIVATE ROADWAY AND CROSSING AGREEMENT

AGREEMENT made this **1st** day of **April**, 19**81**, between
BUHLINGTON NORTHERN INC., a Delaware corporation, hereinafter called "Railroad", and
JAMES G. LUND,

whose post office address is **2227 192nd Street S. E., Issaquah, Washington 98027**

, hereinafter called "Permittee."

WITNESSETH:

WHEREAS, Permittee desires for Permittee's use the ~~construction and maintenance~~ upon the right of way of Railroad of a private **road crossing,**

hereinafter sometimes jointly referred to as the "roadway", and sometimes referred to as the "crossing" to be located at **survey station 723 plus 45 - Mile Post 13.70 at Monchon, King County, Washington**

as shown colored red upon the plan which is attached hereto and made a part hereof, marked Exhibit "A" dated **October 24, 1980**, and Railroad agrees to the ~~construction and maintenance~~ thereof and the use thereof by Permittee upon the following terms and conditions.

1. **Permittee shall, at his own cost and expense, maintain the roadway approaches.**

Railroad reserves the right at any time and is presently permitting other parties to use said road crossing in common with Permittee herein. Said other parties will be required to execute a permit identical to the permit executed by Permittee herein; and all responsibilities required by the terms, conditions and provisions of this permit shall be borne equally by Permittee and said other parties.

~~Permittee shall, at his own sole cost and expense, obtain and furnish to Railroad a policy of Public Liability and Property Damage Insurance as set out in Addendum attached hereto and made a part hereof.~~

2. Permittee shall, upon execution hereof, pay to Railroad for the license and permission hereby granted the sum of **Twenty-Five Dollars (\$25.00) for the first five (5) year period and for each subsequent five (5) years that this agreement remains in effect.**

3. Permittee shall, before any construction is begun, also pay to Railroad the sum of

the agreed cost of the work and materials to be furnished by Railroad at the expense of Permittee, including cost of removal of said roadway.

Permittee shall also pay to Railroad from time to time the cost of the maintenance, additions and betterments done by Railroad herein agreed to be borne by Permittee, within twenty (20) days after bills are rendered therefor, **and such costs shall be divided equally among Permittee herein and any other users of said road crossing as covered by paragraph No. 1 above.**

4. Should the right of way be now or hereafter fenced at the location described, Permittee shall construct, maintain, and keep repaired at Permittee's expense, farm crossing gates in a manner satisfactory to the Division Superintendent of Railroad, and said gates shall be kept closed, except when necessary to be open for travel. Permittee agrees to assume all damages of every kind whatsoever resulting from Permittee's failure to keep gates closed, or for failure to keep the same in proper repair, as agreed in this paragraph.

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7. Permittee shall at its expense erect and maintain a crossing gate across the roadway at the point of crossing which may be used by any vehicle or other means of transport.

8. Permittee shall not permit said crossing to be used as a public roadway.

9. Permittee at Permittee's own expense shall remove and remove any vegetation at said crossing which may interfere with the view of trains approaching in either direction.

10. The permission hereby granted shall neither be or be deemed or construed to be a grant of title or shall it constitute ownership by Permittee of the roadway or that portion of the right of way of Railroad over which the roadway is located.

11. Permittee shall and hereby does release and discharge Railroad of and from any and all liability for damage to or destruction of the said roadway or any property of Permittee thereon and shall and hereby does assume any and all liability for injury to or death of persons or loss of or damage to property in any manner arising from or during the construction, use, maintenance, repair or removal of said roadway, however such injury, death, loss, damage or destruction aforesaid may occur or be caused and shall and hereby does indemnify and save harmless Railroad 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 Railroad any suits or actions at law brought against it on account of any such personal injuries, death or damage to property, and to pay and satisfy any final judgment that may be rendered against the Railroad in any such suit or action. The liability assumed by Permittee herein shall not be affected or diminished by the fact, if it be a fact, that any such suit or action brought against Railroad may arise out of negligence of Railroad, its officers, agents, servants or employees, or be contributed to by such negligence.

Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Railroad, its officers, employees or agents.

12. It is agreed that the provisions of paragraph 11 are for the equal protection of any other railroad company or companies, including National Railroad Passenger Corporation (Amtrak), heretofore or hereafter granted the joint use of Railroad's property, of which said premises are a part.

13. In the event Railroad shall require the use of its premises occupied by the said roadway or any part thereof for any purpose whatsoever, or if Permittee shall fail to keep and perform any of the terms and conditions of this agreement herein agreed by Permittee to be kept and performed, Railroad shall have the right to terminate this agreement at any time upon giving to Permittee thirty (30) days' written notice of its intention so to do and shall, upon expiration of said thirty (30) days, have the right to remove said crossing and barricade said roadway at the cost and expense of Permittee. Said notice shall be good if served personally upon Permittee or posted upon the premises or deposited postpaid in a United States Post Office, addressed to Permittee at Permittee's post office address above stated. No portion of any payments made hereunder will be refunded upon termination of this agreement.

14. Permittee shall not assign or transfer this agreement without first having obtained the written consent of Railroad.

15. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective executors, administrators, successors, and assigns.

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

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

In presence of:

BURLINGTON NORTHERN INC.

M. M. Stuen

By A. W. Orault
General Manager Leases

X [Signature]
JAMES G. LIND

1-11-1930

6

CHARLES O MEYER, JAMES H HESS, JAMES G. LUND
FOR USE OF EXISTING XING

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55 723+45
MP 13.70

See lot 4 in SE 1/4 of 36th of 4th of W. H. COWELL
Jan 23 1890 40th 1897 Same to C. F. H.
Feb 16 1891 Oct Jan 11 1897

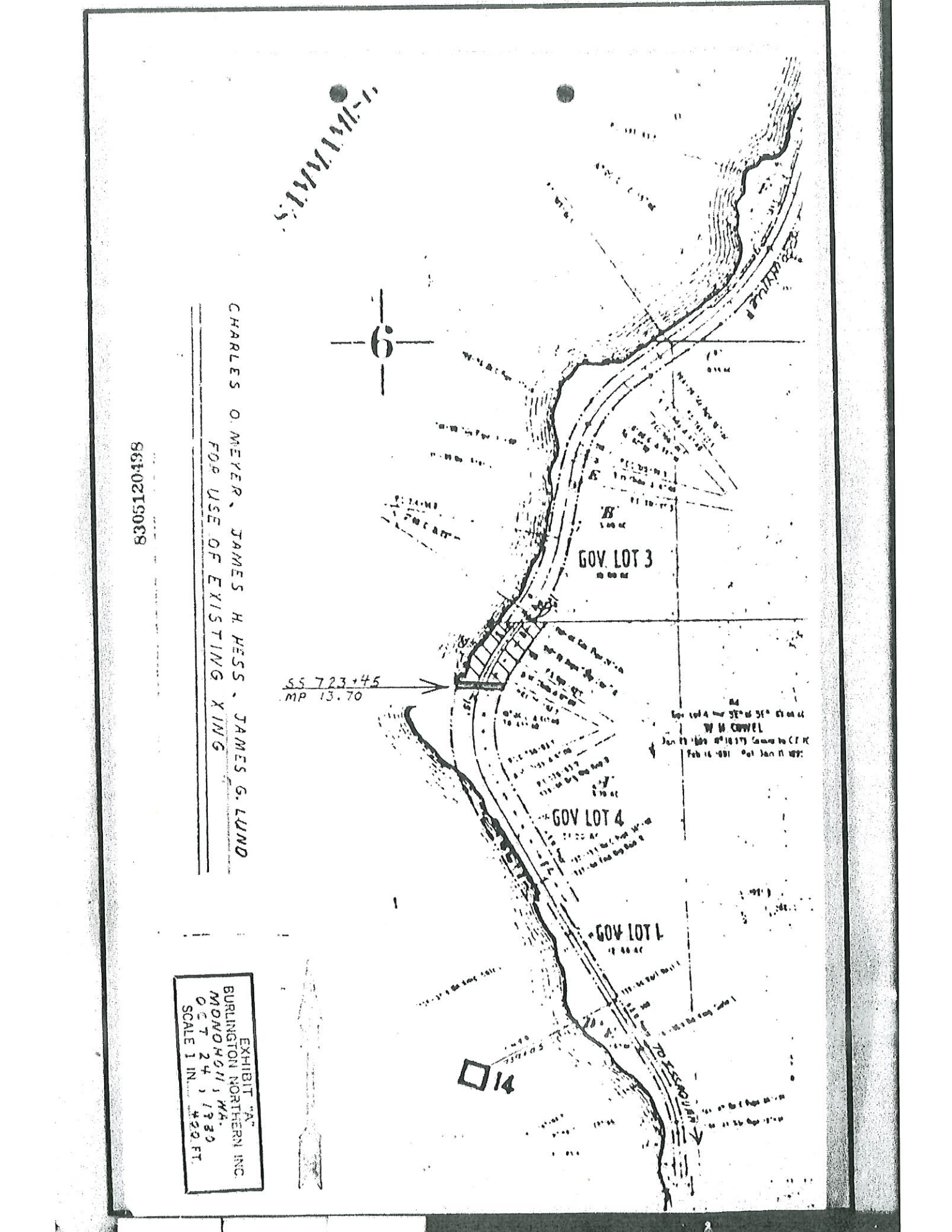
GOV LOT 3
10.00 AC

GOV LOT 4
12.00 AC

GOV LOT 1
12.00 AC

14

EXHIBIT "A"
BURLINGTON NORTHERN INC.
MONTICELLI, VA.
OCT 24, 1930
SCALE 1 IN. = 400 FT.



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FILED for Record at Request of

Name JAMES HESS

Address 2201-190th P. S.E.

ISSAQUAH, WA. 98027