

CLARK COUNTY

DEPARTMENT: Public Works, Parks and Lands

DATE: December 6, 2022

REQUESTED ACTION: Authorize the county manager to execute a lease agreement with Portland-Vancouver Junction Railroad for operation and maintenance of the Chelatchie Prairie Railroad.

Consent Hearing County Manager

BACKGROUND

Since 1987, Clark County has owned the 33-mile shortline railroad commonly known as the Chelatchie Prairie Railroad, extending from North Vancouver at the junction with BNSF Railway to Chelatchie, Washington. The railroad was first leased to Columbia Basin Railroad in 2004 for the purpose of operating and maintaining the freight railroad, and in the future potentially managing the associated properties and developing a dinner train. The lease was subsequently transferred to the Portland Vancouver Junction Railroad (PVJR) in 2012, who currently operates the railroad and provides freight rail service between Vancouver and Battle Ground, Washington.

In 2018, the county undertook a review of the lease and identified several significant legal concerns, including lack of council review and approval (as required by county code), an ambiguous and likely unreasonable lease term, and lack of compensation paid or other benefit to the county. After communicating these concerns to PVJR, the parties filed competing lawsuits in Clark County Superior Court, and PVJR filed additional lawsuits in Skamania County Superior Court and federal court. Following several years of legal challenges and two attempts at mediation, Clark County and PVJR have negotiated a new lease for the railroad that is practical and complies with county code and state law.

The proposed lease agreement incorporates several new provisions addressing the county's concerns, including regarding the term, rent, compliance with applicable laws, maintenance obligations, recordkeeping obligations, and dispute resolution. The initial term will be for thirteen (13) years with an option to renew for an additional twenty (20) years, provided PVJR does not materially breach the agreement. PVJR will be financially responsible for all maintenance obligations on the railroad, except for the North Line and public crossings, which will remain with the county. PVJR can elect to use the North Line, at which time those maintenance obligations will shift to PVJR. PVJR will also be responsible for bridge management on the South Line after the county performs repairs on a series of priority bridge defects. PVJR will also be responsible for annual rent payments, which will increase if and when carload traffic on the railroad increases.

This request is for council to approve the proposed lease agreement with PVJR for operation and maintenance of the Chelatchie Prairie Railroad.

COUNCIL POLICY IMPLICATIONS

Pursuant to Clark County Code chapter 2.33A.150, council approval is required for all leases of real property in excess of one (1) year. Furthermore, pursuant to chapter 2.33A.160, council may execute a lease not to exceed thirty-five (35) years when it is in the public interest and the property to be leased will be improved, and the value of improvement is or will be at least equal to the value of the property to be leased.

PW22-280

REVIEWED: _____

As a basis for lease approval, council should find that this lease has the potential to create and promote opportunities for economic development in Clark County, which is a substantial public benefit. Many of those maintenance obligations are expensive and currently held by the county, so it is expected that this lease will significantly decrease the county's maintenance-related costs over time. Furthermore, the option to extend freight rail service to the North Line and serve outlining communities provides the potential for additional public benefit in the future.

As an additional basis for lease approval, council should find that the lease contemplates substantial improvements to the railroad that will be at least equal to the value of the property. Specifically, PVJR will initially be responsible for all annual maintenance of the South Line, except for bridges and public crossings, to maintain the railroad in at least Federal Railroad Administration (FRA) excepted track status. After priority defects are addressed, PVJR will take responsibility for bridge management and maintenance obligations on the South Line as well. In the event PVJR chooses to extend freight rail service to the North Line, it will assume maintenance responsibilities for this section of the rail including bridge management.

ADMINISTRATIVE POLICY IMPLICATIONS

Approval of the lease with PVJR will result in minor administrative changes. The new lease outlines criteria for rent, payment provisions, and procedures for periodic adjustments, as well as requiring PVJR to maintain and provide detailed records of the carloads it transports, all of which will require administrative oversight on the part of the county. In the event of disputes, the lease clearly outlines a dispute resolution process for both parties to follow, which will require administrative effort on the part of the county but is designed to prevent any further costly and time-consuming legal disputes.

COMMUNITY OUTREACH

There is no community outreach proposed for this action.

BUDGET IMPLICATIONS

The proposed lease does not increase the County's railroad administration or capital budget beyond what has been proposed for 2023 and shifts many county-performed maintenance functions onto PVJR. These changes should result in a decreased cost for the County to administer the railroad over time. Initial savings related to vegetation clearing, drainage maintenance, and bridge management for the South Line is estimated at \$50,000 to \$75,000 annually. PVJR's maintenance obligations will also result in significant cost savings to the County. In addition, PVJR will begin paying rent on a per-carload basis for every car over 500. PVJR's ten-year average for carloads is approximately 700. If this level of transport continues, the County will receive at least \$2,000 annually, and this figure will increase with more carloads.

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	\$0
Grant Fund Dollar Amount	\$0
Account	General Fund
Company Name	Portland Vancouver Junction Railroad

ATTACHMENTS: (1) Lease Agreement

Rocky Houston
 Rocky Houston
 Parks and Lands Division Manager

Sherry Villafane
 Sherry Villafane
 Public Works Finance Manager

Amber Emery
 Amber Emery, MAS
 Deputy County Manager
 Interim Public Works Director

Primary Staff: Kevin Tyler, ext. 1656

APPROVED: Karen Dill Baker
 CLARK COUNTY, WASHINGTON
 CLARK COUNTY COUNCIL

DATE: 12/6/22

SR# 248-22



PW22-280

REVIEWED: _____

LEASE AGREEMENT

This Lease Agreement (“Agreement”) is entered into between Clark County (the “County”), a political subdivision of the state of Washington, and Portland Vancouver Junction Railroad (“PVJR”), a Washington limited liability corporation.

Section 1. Definitions.

- 1.1 “Bridge Load Capacity Standard” means the standard set forth in 49 C.F.R. § 237.71, with the specific load carrying capacity requirement of 286,000 lb at 10mph.
- 1.2 The “Council” means the Clark County Council.
- 1.3 The “County” means Clark County, Washington, a political subdivision of the state of Washington and includes its various departments.
- 1.4 “Effective Date” means the date this Agreement is signed by both parties.
- 1.5 “Environmental Law” means any applicable federal, state, or local law or regulation, or applicable administrative or judicial order relating to the pollution or protection of the environment (including without limitation, those laws, regulations and orders addressing injury to or protection of real and personal property or human health, as such matters are related to protection or pollution of the environment), including without limitation all valid and lawful requirements of courts and other governmental agencies pertaining to wildlife habitat and wetland protection; activities conducted in coastal zone areas and designated wetlands; coastal zone protection and management; stormwater discharge; underground storage tanks; pesticide storage facilities; reporting, licensing, permitting, investigation, remediation and removal of emissions, discharges, Releases or threatened Releases of Hazardous Substances, chemical substances, pesticides, petroleum or petroleum products, pollutants, contaminants or hazardous or toxic substances, materials or wastes whether solid, liquid or gaseous in nature, into the Environment or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances, including, without limitation, storage of petroleum or petroleum products, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature.
- 1.6 “Environmental Claim” means any cleanup, response, removal, or remediation required by a governmental entity, related to any environmental conditions affecting the air, soil, surface waters, ground waters, streams, sediments and similar environmental conditions caused by, resulting from, arising out of, or occurring in connection with, this Agreement.
- 1.7 “FRA” means the Federal Railroad Administration.

- 1.8 “FRA Track Safety Standards” means the requirements for specific classes of track found in 49 C.F.R. § 213 *et. seq.*
- 1.9 “FRA Excepted Track” has the same meaning as in 49 C.F.R. § 213.4.
- 1.10 “Hazardous Substances” means any substance:
- (1) which is defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “pollutant,” or “contaminant” or is regulated under any Environmental Law, including without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), Resource Conservation and Recovery Act, Clean Air Act and Insecticide, Fungicide and Rodenticide Act, and similar state and local laws; or
 - (2) which contains gasoline, diesel fuel or other petroleum products or products containing petroleum hydrocarbons or volatile organic compounds; or
 - (3) which contains polychlorinated biphenyls (“PCBs”) or asbestos or urea formaldehyde foam insulation; or
 - (4) which contains or emits radioactive particles, waves or material, including radon gas.
- 1.11 The “North Line” is the segment of the Line of Railroad owned by the County from Milepost 18.7 to Milepost 33.1, including rights-of-way, track, track materials, wires, pipes, conduits, poles, guys, bridges, switches, buildings, shops, culverts, signals, scales and related structures, fixtures, easements, licenses, improvements, all ancillary and direct or contiguous rail operating yards, facilities, plants or appurtenances located on or adjacent to the railway, and all necessary real property and property rights.
- 1.12 “Rail Freight Transportation Service” means the common carrier, contract, and exempt rail transportation service to be provided on the Line of Railroad during the Term of this Agreement.
- 1.13 The “Line of Railroad” means the right-of-way and track owned by the County, which spans 33.1 miles from North Vancouver (MP 0.0) to Chelatchie (approximately MP 33.1), including rights-of-way, track, track materials, wires, pipes, conduits, poles, guys, bridges, switches, buildings, shops, culverts, signals, scales and related structures, fixtures, easements, licenses, improvements, all ancillary and direct or contiguous rail operating yards, facilities, plants or appurtenances located on or adjacent to the Line of Railroad, and the real estate necessary to the operation of rail service identified in Exhibit A to this Agreement. Attached as Exhibit B to this Agreement is a map depicting the Line of Railroad.
- 1.14 “Surface Transportation Board” or “STB” means the governmental agency replacing the Interstate Commerce Commission and any successor agency with

jurisdiction over transportation in the United State between a place in a State and a place in the same or another State as part of the interstate rail network.

- 1.15 “Term” means the term of this Agreement as specified in Section 3.1 of this Agreement.

Section 2. Intent and Authority.

2.1 Intent. The purpose of this Agreement is to govern the relationship between the County and PVJR regarding PVJR’s use and operation of the Line of Railroad. The parties agree that PVJR’s use and operation of the Line of Railroad under this Agreement is in the public interest and provides a substantial public benefit, including promoting economic development. Although the County cannot commit to a particular legislative outcome or approval of any specific action or project proposal, the County agrees to consider and engage in good faith with PVJR to pursue and promote economic development related to the Line of Railroad, including but not limited to considering the following:

- 2.1.1 developing Freight Rail Dependent Uses as permitted under Chapter 36.70A of the Revised Code of Washington;
- 2.1.2 cooperating with PVJR to identify and apply for appropriate track-related state and federal grant funding;
- 2.1.3 implementing a new zoning designation called “railroad industrial” for an area north of the current Vancouver Urban Growth Boundary south of NE 149th Street, north of the NE 119th Street, and both east and west of the Line of Railroad;
- 2.1.4 implementing design standards for new “railroad industrial” development on real property abutting or near the Line of Railroad;
- 2.1.5 identifying mineral resources based land uses located abutting or near the Line of Railroad; and
- 2.1.6 evaluating the surface mining overlay development regulations and considering the multiple levels of regulations around surface mines to increase regulatory efficiencies related to railroad uses.

This Section 2.1 does not create, modify, or otherwise alter any obligation of the County to review or approve a specific legislative action or project proposal. This Section 2.1 of this Agreement does not create any duty or obligation on the part of either party.

2.2 County Authority. This Agreement has been reviewed and approved by the Council and is supported by specific written findings and conclusions entered by the Council and supported by the record as required by Chapter 2.33A of the County Code as it existed on the date this Agreement was executed.

Section 3 Lease of the Line of Railroad.

- 3.1 Term. The County leases the Line of Railroad to PVJR on the terms and conditions set forth in this Agreement, for an initial term of thirteen (13) years commencing on the Effective Date of this Agreement. This Agreement may be renewed for an additional term of twenty (20) years pursuant to Section 3.5 of this Agreement.
- 3.2 Rent. PVJR does not owe any rent for the first 500 carloads per calendar year. With the exception of aggregate products and other natural resource related products, if the carloads exceed 500 in a calendar year, PVJR must pay \$10 per carload for the next 1,000 carloads (501 to 1,500 carloads) per calendar year, \$20 per carload for the next 3,500 carloads (1,501 to 5,000 carloads) per calendar year, and \$30 per carload for each carload in excess of 5,000 carloads per calendar year. The per carload fee will be \$5 per carload for all aggregate products and other natural resource related products. PVJR shall maintain accurate and thorough records of the carloads it transports, and will provide by email an accounting of each month's activity to the County no later than the 15th day of the following month.
- 3.3 Yearly Rent Adjustment. Once payments are triggered by an increase in the carloads above 500 carloads per year or ten years from the signing of this Agreement, per car fees will be increased or decreased annually as of January 1 according to the Rail Cost Adjustment Factor (RCAF-5) published by the STB.
- 3.4 Rent Payment. Rent shall be paid no later than the last day of the month after the month that PVJR's obligation to pay rent begins. For example, if the 501st carload is transported on March 15, rent shall be due no later than April 30, and on the last day of each subsequent month.
- 3.5 Renewal Option. Provided that: (1) PVJR has not at any time during the term materially breached its obligations under this Agreement, or (2) the parties have resolved any material breach of this Agreement in accordance with the dispute resolution provisions in Section 14 of this Agreement, or (3) the parties have otherwise waived in writing a material breach of this Agreement, PVJR shall have the option to extend the Agreement for an additional term of up to twenty (20) years consistent with the policies, restrictions, and requirements in Chapter 2.33A of the County Code. All of the terms and conditions of this Agreement shall apply during the extension term. PVJR shall exercise its extension option by written notice to the County at least ten (10) months prior to the expiration of the initial term of the Agreement. If PVJR does not give written notice at least ten (10) months prior to the expiration of the initial term of this Agreement, the option expires. If a court of law determines this Renewal Option is invalid for any reason, the parties shall negotiate in good faith to amend this Agreement to address the basis on which the court found the Renewal Option to be invalid in accordance with Section 18.3 of this Agreement. If after engaging in good faith negotiations, including the dispute resolution procedures in Section 14 of this Agreement, the parties are unable to reach agreement, the December 20, 2004 Lease between Columbia Basin Railroad and the County, as assigned to PVJR on or about February 1, 2012, shall resume in

full force and govern and control the parties' respective rights and obligations and the subject matter of this Agreement.

- 3.6 The County's Right of Entry. The County reserves the right to access the Line of Railroad, except that the foregoing right shall not be exercised in a manner that unreasonably interferes with PVJR's use of the Line of Railroad. The County's right of access under this Section 3.6 does not include the right to operate trains or other vehicles or rolling stock on the Line of Railroad. The County must require any person accessing the Line of Railroad on the County's behalf to sign release forms releasing PVJR from liability for injury to or death of such persons arising out of PVJR's railroad operations, excluding gross negligence or willful or wanton misconduct.
- 3.7 Environmental Remediation. With prior written notice to PVJR, the County shall have full and unrestricted access to the Line of Railroad as the County deems necessary to investigate or remediate environmental conditions for which the County is or may be alleged to be liable at law or under this Agreement, at the County's sole expense (except to the extent that liability for the expense in question is allocated to PVJR under this Agreement), provided that:
- 3.7.1 The County shall not exercise the foregoing rights in a manner that unreasonably interferes with PVJR's use of the Line of Railroad;
- 3.7.2 The County shall follow all applicable federal and state laws and regulations pertaining to accessing the Line of Railroad; and
- 3.7.3 The County shall not commence remediation without first providing PVJR with a description of the work to be undertaken and consulting with PVJR regarding the manner in which work is to be performed. PVJR shall have the right to have its representatives accompany representatives of the County in the exercise of the rights granted in this Section 3.7.3.
- 3.8 Access to Records. PVJR shall maintain full and complete financial, operational, and maintenance records in electronic form that at any reasonable time during regular working hours shall be open for inspection by the County. Specifically, the County Manager or the County Manager's designee shall have the right to inspect the aforementioned records at PVJR's premises, or PVJR may instead provide the records to the County in a timely manner. These records must at a minimum substantiate the following:
- 3.8.1 PVJR's accounting of carloads and rent paid under this Agreement;
- 3.8.2 PVJR's payment of the costs of all required fees, permits, licenses, and taxes necessary to operate and maintain Railroad Freight Transportation Service related to the Line of Railroad;
- 3.8.3 PVJR's maintenance records sufficient to determine the existing maintenance level of the Line of Railroad at any given point in time. Such

maintenance records shall include existing track profiles, inspection reports, reports of materials removed, scrapped, redeployed or installed new, expenditure of grant funding dedicated to the construction or maintenance of the Line of Railroad, and other such maintenance records. Nothing in this subsection shall be construed to require PVJR to divulge any information that would be in violation of the Interstate Commerce Act or related federal regulations. Nothing in this subsection shall be construed to concede that any or all PVJR records are “public records” to which Chapter 42.56 RCW applies. If a public records request is made to the County for records in PVJR’s custody or control, the Parties shall cooperate fully with timely reviewing the request, identifying responsive public records (if any), identifying in good faith applicable exclusions to disclosure, making responsive records (if any) available for inspection, and participating in any Court challenge to the Parties’ response to the public records request.

- 3.9 Taxes and Other Charges. PVJR shall pay all required fees, permits, licenses, and taxes necessary to operate and maintain Railroad Freight Transportation Service. The County shall assist and cooperate in application for permits and licenses required by local, state, or federal, or governmental agencies. PVJR shall assume all real property taxes, 45G Railroad Track Maintenance Tax Credits, leasehold taxes, public improvement and maintenance charges, special assessments, ad valorem taxes, and assessments. PVJR may deduct up to fifty (50) percent of the rent payable under this Section 3 of this Agreement to offset any taxes or fees paid under this Section 3.9 of this Agreement. PVJR agrees to pay the County for any utility charges or any other expense which relates directly or indirectly to the providing of utilities to the Line of Railroad, except the County agrees to pay utility charges related to the illumination and signalization of public road crossings along the project line.
- 3.10 Social Security, Railroad Retirement, and Other Taxes. PVJR assumes full responsibility for the payment of all payroll, use, sales, income, or other forms of taxes, fees, licenses, excises, or payments required by any city, federal, or state legislation which are now or may during the term of this Agreement be enacted as to all persons employed by PVJR and as to all duties, activities, and requirements by PVJR in performance of the work pursuant to this Agreement.
- 3.11 Independent Contractor. PVJR, including its directors, officers, employees, agents or other representatives, is an independent contractor of the County and is not an employee, agent, or partner of the County.
- 3.12 Termination.
- 3.12.1 County’s Termination Rights. The County reserves the right to immediately cancel and terminate this Agreement in the event of:
- 3.12.1.1 A material breach of any of the terms and conditions of this Agreement, including but not limited to substantive

noncompliance with all applicable federal, state, local, and police requirements, regulations, ordinances, and laws, related to PVJR's operation, condition, inspection and safety of trains, locomotives, cars and equipment, which PVJR has not cured or taken reasonable steps to cure within 30 days of the completion of the dispute resolution process in Section 14 of this Agreement; or

3.12.1.2 PVJR shall give the County written notice if PVJR ceases to provide rail service on any portion of the Line of Railroad by embargo, abandonment, or otherwise, except as otherwise allowed under this Agreement, without the County's consent. If within thirty (30) days of the County's receipt of written notice PVJR has not reinstated rail service and (1) PVJR has not cured the breach or (2) PVJR has not taken all reasonable steps toward curing the breach, the County shall have the right but not the obligation to take possession of the Line of Railroad, and this Agreement will terminate.

3.12.2 PVJR's Termination Rights.

3.12.2.1 PVJR may terminate this Agreement in the event of a breach of any of the terms and conditions of this Agreement which the County has not cured or taken reasonable steps to cure within 30 days of the completion of the dispute resolution process in Section 14 of this Agreement.

3.12.3 Expiration of Term. This Lease shall terminate upon the expiration of the Term, unless PVJR exercises its option to renew the Agreement pursuant to Section 3.5 of this Agreement.

3.12.4 Fees and Costs.

3.12.4.1 In the event that the County or PVJR terminate this Agreement for cause pursuant to Section 3.12 of this Agreement, PVJR shall bear all responsibility for and all costs in obtaining the necessary discontinuance or abandonment authority or exemption with respect to the Line of Railroad, including reasonable attorney fees and the cost of any labor protective conditions imposed by the STB in connection with such abandonment or discontinuance.

3.12.5 Order. This Agreement shall terminate on any order by the STB, court, arbitrator, or other administrative agency that terminates PVJR's authority or ability to provide common carrier freight service over the Line of Railroad.

3.12.6 Continuing Liability. Termination of this Agreement shall not relieve either party from any liability that may have attached or accrued prior to or at the date of termination of this Agreement and shall not deprive either party of its rights to enforce any such liability or of the benefits of any covenants or obligations in this Agreement.

3.12.7 Settlement. Upon termination of this Agreement, the County and PVJR shall settle all accounts, including payments in lieu of taxes, divisions of rates, and adjustments, as of the date of transfer of possession to the County or the County's designee. PVJR shall have a reasonable period of time, not to exceed 60 days unless the parties agree otherwise in writing, to remove its personal property from the Line of Railroad, including its locomotives.

3.13 Cooperation in the Event of Termination. Upon the termination of this Agreement, PVJR shall seek and obtain the necessary authorization from the STB to discontinue service. PVJR shall not oppose or obstruct the County's efforts to obtain the requisite approvals to discontinue PVJR's authority to operate the Line of Railroad or to seek a replacement operator. PVJR's obligations under this Section 3.13 shall survive the termination of this Agreement.

Section 4. Administration of Property-Related Agreements.

4.1 Responsibility. PVJR shall administer and be responsible for all records related to its obligations under this Agreement, and shall be entitled to rentals or other income relating to track construction agreements, track leases, property leases, permits, licenses, easements and all other such property-related agreements, except income resulting from the signboard leases acquired from BNSF in 1997.

4.2 Notice. PVJR agrees to provide the County with advance notice of each proposed property-related transaction. Property-related transactions shall be considered by the County within 30 days after receiving such notice from PVJR, and shall be approved unless it would cause a material diminution in the value of the Line of Railroad, otherwise materially and adversely affect the County's rights under this Agreement, or materially limit the opportunities available to the County for compatible right of way uses. PVJR agrees that it shall use PVJR's standard form property-related agreements for all such transactions entered into after the Effective Date. All such agreements shall be three-party agreements among the County, PVJR, and the third party using or occupying the properties. PVJR agrees to ensure that the provisions in each agreement among the County, PVJR, and a third party contain liability provisions which hold the County harmless from liability occurring as a result of PVJR's operations under this Agreement or any actions of such third party pursuant to the property-related transactions addressed in this Section 4.2.

4.3 Termination. Upon termination or expiration of the term of this Agreement, all property related agreements shall be deemed automatically re-assigned from PVJR to the County, and the County shall thereafter assume and bear all rights, liabilities,

and obligations arising or accruing thereunder after termination or expiration of the term of this Agreement.

Section 5. Possession and Use.

- 5.1 General. Except to the extent otherwise provided in this Agreement, during the Term of this Agreement PVJR shall have the exclusive possession and use of any and all rights and licenses in the Line of Railroad related to providing Rail Freight Transportation Service. PVJR covenants that it will use the Line of Railroad solely for the provision of Rail Freight Transportation Service and related activities and will not use the Facilities for any other purpose without the prior written authorization of the County, which shall not be unreasonably withheld. PVJR covenants that (1) it will not use, or allow others to use, the Line of Railroad for the storage, manufacture, processing, reprocessing or disposal of hazardous or toxic substances as defined by state and federal law without the County's prior written consent, provided that nothing in this clause shall be construed as limiting PVJR's right to store, transport, manufacture, process, reprocess or dispose of hazardous materials or toxic substances in the ordinary course of business consistent with railroad industry standards, (2) it will not make the Line of Railroad available for use by third parties for the purpose of provision of Rail Freight Transportation Service or for any other purpose without the prior written approval of the County, and (3) it shall comply with all applicable federal, state, local, and police requirements, regulations, ordinances, and laws related to PVJR's operation, condition, inspection and safety of trains, locomotives, cars and equipment. The County retains the right to inspect the Line of Railroad upon twenty-four (24) hours' notice and at the County's sole expense, for the purpose of verifying PVJR's compliance with the terms and conditions of this Agreement.
- 5.2 Rail Freight Transportation Service. During the Term, PVJR shall have the exclusive right and responsibility to provide Rail Freight Transportation Service on the Line of Railroad. PVJR agrees to work reasonably with governmental agencies to continue rail related transit on the Line of Railroad.
- 5.3 Management and Operation. PVJR shall be responsible in its own name for the management and operation of Rail Freight Transportation Service, including the provision of locomotives, cars, and other equipment; the dispatching and scheduling of trains; the employment and assignment of crews and other employees; and the performance of maintenance as provided in Section 7 of this Agreement. PVJR shall have the exclusive authority to promulgate and adopt rules and regulations for the operation of Rail Freight Transportation Service. PVJR shall also have exclusive responsibility for all aspects of employment relative to PVJR's performance of Rail Freight Transportation Service.
- 5.4 INTENTIONALLY OMITTED.
- 5.5 Taking. The County agrees that the use of the Line of Railroad as a railroad by any entity other than PVJR is not a public use for the term of this Lease, and thus neither

the Line of Railroad nor the railroad right of way can be condemned by the County to allow its possession or use as a railroad by any other entity other than PVJR during the term of this Agreement. In the event some or all of the Line of Railroad is taken under the power of eminent domain exercised by any governmental or quasi-governmental authority (the "Condemning Authority") or are conveyed in lieu thereof ("a Condemnation"), this Lease shall automatically terminate as of the date that possession and use are transferred to the Condemning Authority ("the Condemnation Date"), unless the parties agree otherwise in writing. The County shall not have the right to grant the Condemning Authority possession and use of the Line of Railroad or railroad right of way without PVJR's consent.

Section 6. Leaseback of North Line.

- 6.1 Scope of Leaseback. PVJR agrees to leaseback to the County, and the County agrees to lease from PVJR, the North Line until June 6, 2027.
- 6.2 PVJR's Retained Rights. PVJR retains the right to access the North Line as necessary to conduct Rail Freight Transportation Service, as long as that right of access is not exercised in a manner that unreasonably interferes with the County's use of the North Line. PVJR shall exclusively serve all freight customers and retains all STB common carrier freight rights and obligations with regard to the North Line. In the event PVJR exercises its right to access the North Line by removing the derail at MP 18.7 to conduct rail operations, PVJR shall be responsible for the payment of and shall bear the costs of all required fees, fines, permits, licenses, public improvement and maintenance charges, special assessments, and taxes necessary to operate and maintain freight service on the North Line. PVJR shall not be responsible for fines imposed arising out of or related to the County's or its subtenant's use of the North Line. PVJR retains the sole right to collect rents, licensing, or usage fees or any other income from the operation of Rail Freight Transportation Service on the North Line.
- 6.3 Scheduling Conflicts. If PVJR and the County or the County's sublessee wish to simultaneously operate trains or vehicles on the North Line, or make upgrades or conduct maintenance on the North Line that would interfere with freight rail operations, PVJR shall establish and operate a dispatch system and track repair and upgrade protocol to resolve any conflicts. PVJR shall avoid unscheduled or non-emergency track upgrades or repairs that will conflict with existing passenger schedules. Ultimate priority for scheduling of track work or freight operations shall remain with PVJR in the event of an unforeseen, safety-related, or emergency-related conflict.
- 6.4 Indemnity. The County agrees to release, indemnify, defend and hold harmless PVJR and its officers, employees, and agents from and against any and all liability, loss, damage, expense, action, and claim including reasonable attorney fees, and any and all bodily injury claims brought by employees or sublessees of the County (together, "Losses") incurred by, or alleged against, PVJR and its officers, agents, and employees that arise out of or are connected with (i) the performance of rail

operations, maintenance, and other activities performed by the County or its authorized agents or sublessees on the Line of Railroad; or (ii) the County's sublease of the North Line, excluding activities directly related to PVJR's retained rights in 6.2 and 6.3 of this Agreement. The County has no obligation and does not agree to indemnify, defend, or hold harmless PVJR with respect to any losses that arise out of or are connected to the gross negligence or willful misconduct of PVJR or its agents, employees, successors, parent companies, officers, directors, or assigns, or that result from the exacerbation of an act, omission, or condition that causes a failure to exercise due care in mitigating the effect of such act, omission, or condition. PVJR is responsible for and agrees to release, indemnify, defend, and hold harmless the County and its officers, directors, employees, elected officials, and agents from and against all Losses that arise out of or are connected to PVJR's operations on the North Line, to include negligence or willful misconduct of PVJR or its officers, directors, employees, or agents. If each party bears some responsibility for the same claim, each party's responsibility to address and resolve the claim shall be in proportion to its role in contributing to the claim.

Section 7. Maintenance and Improvement of the Line of Railroad.

7.1 Maintenance.

7.1.1 During the Term, PVJR shall perform all normal maintenance and construction necessary to maintain the Line of Railroad, other than the North Line, in at least FRA Excepted Track condition. If PVJR exercises its rights under Section 6.2 of this Agreement to conduct Rail Freight Transportation Service along the North Line, then PVJR shall also perform all normal maintenance necessary to maintain the North Line in at least FRA Excepted Track condition. At no time shall PVJR be responsible for maintaining, improving, or upgrading the Line of Railroad to FRA Class 1 or higher standards to accommodate the County's or its sublessee's passenger excursions, nor shall PVJR be responsible for additional track inspections to accommodate the County's or its sublessee's passenger operations.

7.1.2 Within a reasonable period of time after execution of this Agreement, the County shall work diligently and in good faith to perform or cause to be performed all normal maintenance necessary to maintain the North Line in at least a FRA-compliance condition that is suitable for 10 mile per hour freight service for FRA Excepted Track. Under no circumstances shall track improvement and maintenance activities be permitted that degrade or remove portions of the North Line track. If the County upgrades the North Line to accommodate passenger excursions, the upgrades and all ongoing normal maintenance shall be maintained to an FRA-compliant condition suitable for passenger excursions upon FRA Class I track as defined at 49 C.F.R. 213.9. Compliance with said standards shall be achieved before the track is used for passenger excursion service, including the relocation of derails. In no event shall the County's maintenance obligations obligate the

County to perform any maintenance, repairs or restoration of the North Line that is beyond the scope of normalized maintenance for a rail line in the conditions set forth, nor for extraordinary damage to the North Line due to acts of God.

- 7.1.3 Under no circumstances shall track improvement and maintenance activities be permitted that degrade or remove significant sections of the Line of Railroad. PVJR and the County shall cooperate on the use of grant funds obtained by PVJR and/or the County to satisfy obligations under this Section 7.1 and 7.3 of this Agreement. The County shall timely deploy grant funding received for the maintenance and improvement of the Line of Railroad. PVJR and the County agree to consider in good faith any input received from the other party on the use and deployment of any grant funds obtained by PVJR and/or the County. The County retains final authority over how any grant funds awarded to the County are used or spent.
- 7.1.4 Except as permitted in Section 7.1.5 of this Agreement, either party's failure to maintain their portion of the Line of Railroad in at least FRA Excepted Track condition is a material breach of this Agreement.
- 7.1.5 At any time during the Term, PVJR may impose an embargo on all or part of the Line of Railroad and, upon the imposition of such embargo, PVJR's maintenance obligations under this Section 7 of this Agreement shall be suspended until the embargo is lifted. PVJR will be responsible for ensuring that all portions of the Line of Railroad impacted by the embargo are returned to pre-embargo condition upon the lifting of the embargo. The portion of the Line of Railroad north of milepost 14.12 is not known to be currently in FRA Excepted Track condition. The provisions of this Agreement regarding maintenance and improvement of the Line of Railroad do not and will not apply to the portion of the Line of Railroad north of milepost 14.12 until both parties agree in writing that this portion of the Line of Railroad is in at least FRA Excepted Track condition.
- 7.1.6 In addition to the maintenance obligations under Section 7.1.2, the County shall also maintain or cause to be maintained all County-owned public road crossings and crossing signals, as well as overhead and underground utilities associated with those public crossings, in accordance with all applicable laws. If the County has a legal obligation to maintain and/or install privately owned crossings, PVJR and the County will work collaboratively on maintenance and installation of the privately owned crossing. The County shall provide crossing signals, signs, and road surfaces within the road right-of-way. The County shall provide for fence maintenance and public dumping pickup along the Line of Railroad, in accordance with the applicable laws and annual maintenance program, which shall identify the timing, location, and level of maintenance to be provided. PVJR shall provide rail, ties, and installation in road crossing projects at PVJR's expense. PVJR shall also provide all of the equipment

and personnel necessary to allow the County to safely access the railroad right of way to perform the County's maintenance obligations under this Section 7.1.6.

- 7.1.7 PVJR shall have salvage rights to all materials removed from the Line of Railroad in the course of PVJR-funded or grant-funded maintenance requiring in-kind replacement materials, unless otherwise specified by the terms of the grant. The County shall have salvage rights to all materials removed from the Line of Railroad in the course of County funded maintenance requiring in-kind replacement materials.
- 7.1.8 The parties' maintenance responsibilities do not extend to extraordinary damage to the Line of Railroad due to acts of God or an unanticipated disaster or phenomenon that could not have been prevented or avoided by the exercise of due care or foresight. The parties agree that in the event of such extraordinary damage they will work together to repair the damage, subject to and consistent with Section 13 of this Agreement.
- 7.1.9 All maintenance activities on public road crossings shall be coordinated between the County and PVJR in order to protect the safety of the general public and rail traffic.
- 7.1.10 The County shall be responsible for repairing all existing priority 1-3 defects (as identified in Exhibit C to this Agreement) on bridges along the Line of Railroad. The County shall make such repairs within a reasonable period of time, subject to the availability of grant funding. PVJR shall commit to attempt to procure grant funding for such repairs. The County shall pay the cost for all annual bridge inspections, except as provided in Section 7.1.10.1 of this Agreement.
 - 7.1.10.1 Once the parties mutually agree that all such defects have been repaired on bridges from Milepost 0.0 to 18.7, PVJR shall become responsible for all routine bridge maintenance from Milepost 0.0 to 18.7 and shall pay the cost for all annual bridge inspections for those bridges. In the event PVJR exercises its right to access the North Line by removing the derail at MP 18.7, PVJR shall be responsible for all bridge maintenance on the Line of Railroad, except for the defects identified in Exhibit C, and shall pay the cost for annual bridge inspections for all bridges on the Line of Railroad.
 - 7.1.10.2 After the County repairs the defects identified in Exhibit C to this Agreement, the County will reimburse PVJR half the cost of a study to evaluate whether the bridges along the Line of Railroad satisfy the Bridge Load Capacity Standard, subject to the availability of any grant funding for that study and for maintenance of and improvements to the Line of Railroad. If the

study demonstrates that any bridges do not satisfy the Bridge Load Capacity Standard, the parties shall work collaboratively to obtain funding necessary to bring the bridges into compliance with the Bridge Load Capacity Standard.

7.1.10.3 The parties are jointly responsible for and will work collaboratively to ensure compliance with 49 C.F.R. § 237, including any obligations regarding a bridge management program.

7.1.10.4 Both parties shall maintain copies of annual bridge inspection reports.

7.1.11 PVJR and the County may use grant funds obtained by PVJR and/or the County to satisfy obligations under this Section 7.1 of this Agreement.

7.1.12 Neither PVJR nor the County shall be required to spend more than \$150,000 to repair or improve any one bridge.

7.2 Improvements. The County or PVJR may in their own independent discretion decide to fund all or part of improvements to the Line of Railroad. "Improvements" are any modifications to the Line of Railroad that exceed the maintenance obligations identified in Section 7.1 of this Agreement. This Agreement shall not be construed to in any way to require the County to allocate funds from its General Fund Budget to fund improvements to the Line of Railroad. Regardless of how improvements are funded, all improvements to the Line of Railroad shall become the property of the County, unless otherwise agreed to by the parties.

7.3 Use of Grant Funds. PVJR and the County agree to cooperate in securing and administering grant funds for maintenance of and improvements to the Line of Railroad. The County shall timely deploy federal and state grant funding received for the maintenance and improvement of the Line of Railroad. PVJR and the County agree to consider in good faith any input received from the other party regarding the use or application of any grant funds obtained by PVJR and/or the County. The County retains the discretion to determine if, how, and when to provide matching funds for any grants sought or obtained for the Line of Railroad. The County retains final oversight and approval over the use of any grant funds that are awarded to the County.

7.4 Waivers. Either party may identify in writing County trackage or other structures which they wish to maintain at less than FRA Excepted Track condition. Within thirty days of receipt of such written notice, the receiving party shall reasonably determine whether it is willing to permit the identified trackage or other structure to be maintained in less than FRA Excepted Track condition and notify the other party of its decision.

7.5 Materials. PVJR may construct or relocate industrial leads, sidings, yard switches and facilities, and other rail infrastructure on the Line of Railroad so as to enable

PVJR to serve new and existing rail customers on or accessible from the Line of Railroad. All such construction on the Line of Railroad shall conform with applicable law and shall become part of the Line of Railroad. PVJR agrees that it shall not remove any of the existing materials comprising the Line of Railroad and replace the same with materials of inferior quality without the prior written consent of the County, which shall not be unreasonably withheld. The County's consent to remove track material or other parts of the Line of Railroad in the course of PVJR's performance of ordinary and routine maintenance shall not be necessary when (i) any materials removed from the Line of Railroad are to be, and in fact are, subsequently replaced by materials of equal or superior quality, in which event PVJR may retain and dispose of, for its own account, any of the materials so removed, and (ii) the materials removed were installed by PVJR during the Term and were not replacement materials. If the preceding sentence conflicts with the terms of the grant that funded the material or other parts of the Line of Railroad to be removed, the terms of the grant shall control.

- 7.6 Compliance with Laws. PVJR agrees to comply in all material respects with all laws, ordinances, rules, regulations, final orders and decrees applicable to the Line of Railroad, and shall indemnify, defend, protect and hold harmless the County from and against any fines or penalties levied against PVJR or the County as a result of PVJR's noncompliance with said laws, ordinances, rules, regulations, final orders and decrees.

Section 8. Liability and Insurance.

- 8.1 Allocation of Liability. The liability of the parties shall be apportioned as follows:

8.1.1 PVJR shall be responsible for and agrees to release, indemnify, defend and save harmless the County, its officers, employees and agents from and against any and all liability, loss, damage, expense, action and claim, including reasonable attorney fees (together, "Losses") incurred by the County, its officers, employees and agents that arise out of or are connected to (i) the performance of rail operations, maintenance, and other PVJR activities, by PVJR over the Line of Railroad during the Term, or (ii) a breach by PVJR of any of its covenants, representations, or warranties set forth in this Agreement. PVJR specifically agrees to be responsible for and to indemnify and hold harmless the County from any and all bodily injury claims brought by employees of PVJR, to the extent such injuries occurred in connection with an employee's performance of rail operations over the Line of Railroad, and expressly waives its immunity under the Washington Industrial Insurance Act. PVJR shall not be responsible for and shall have no obligation to indemnify, defend, or hold harmless with respect to, any Losses to the extent such Losses arise out of or are connected to the gross negligence or willful misconduct of the County.

8.1.2 The County shall be responsible for and agrees to release, indemnify, defend, and save harmless PVJR, its officers, directors, shareholders,

employees and agents from and against any and all Losses incurred by PVJR, its officers, directors, shareholders, employees and agents that arise out of or are connected to (i) the maintenance of or use by the County, or its authorized agents or sublessees, of the Line of Railroad (or any portion thereof) during the Term, such as for recreational, passenger excursions, public utility purposes or any other use of the Line of Railroad, or (ii) a breach by the County of any of its covenants, representations, or warranties set forth in this Lease. The County shall not be responsible for and shall have no obligation to indemnify, defend, or hold harmless with respect to, any Losses to the extent such Losses arise out of or are connected to the gross negligence or willful misconduct of PVJR.

8.2 Environmental Claims. Responsibility for Environmental Claims shall be borne as follows:

8.2.1 As between the County and PVJR, the County shall fully address and resolve Environmental Claims arising from:

8.2.1.1 Environmental conditions demonstrably shown to have existed on the Line of Railroad prior to December 20, 2004;

8.2.1.2 The use of or presence upon the Line of Railroad by the County or its employees, agents, licenses, or contractors unless such Environmental Claims arise from PVJR's negligence, or;

8.2.1.3 The County's failure, or that of its employees, agents, licensees, or contractors, to comply with its obligations under this Agreement when such failure is the sole cause of such Environmental Claims.

8.2.2 As between the County and PVJR, PVJR shall fully address and resolve Environmental Claims arising from:

8.2.2.1 Environmental conditions existing on the Line of Railroad demonstrably shown to have occurred on or after December 20, 2004, and which were caused by the actions of PVJR or its predecessor CBRR;

8.2.2.2 The use of or presence upon the Premises by PVJR or its predecessor CBRR or its employees, agents, licensees, or contractors from and after December 20, 2004 unless such Environmental Claims arise from the County's negligence; or

8.2.2.3 PVJR's or its predecessor CBRR's failure, or that of its employees, agents, licensees, or contractors, to comply with its obligations under this Agreement when such failure is a contributing cause to such Environmental Claims.

- 8.2.3 If each party bears some responsibility for the same Environmental Claim, each party's responsibility to address and resolve the Claim shall be in proportion to the extent of its role in contributing to the Claim.
- 8.2.4 If either party is solely responsible for an Environmental Claim, it shall release the other party from all responsibility to address and resolve such Claim and shall defend, indemnify, protect, and save harmless the other party from and against such Claim, including all attorney fees and other costs incurred to defend against such Claim.
- 8.2.5 In the event any cleanup, response, removal, or remediation of any environmental condition is required by a governmental entity (hereinafter collectively referred to as "Response Action"), PVJR shall permit the County and its contractors access to the Line of Railroad consistent with this Agreement. The County shall have the right, but not the obligation, to conduct reasonable inspections of a Response Action by PVJR. Each party shall provide the other with all information reasonably requested by the other regarding each Response Action or Environmental Claim for which either is responsible.
- 8.3 Insurance. During the Term, PVJR shall procure and maintain insurance coverage as set forth in this Section 8.3, and shall be responsible for all premiums and deductibles. Any insurance policies procured and maintained by PVJR under this Section 8.3 shall provide and the certificate of insurance shall reflect that the County and its officers and employees are additional named insureds.
- 8.3.1 PVJR shall obtain Railroad Liability Insurance for the Line of Railroad with an aggregate limit of not less than \$5,000,000 per occurrence for all damages arising out of the bodily injuries to or death of persons and for all damages to or destruction of property.
- 8.3.2 Any policies procured and maintained under this Section 8.3 shall specify a deductible of less than \$250,000 per claim. If demanded in writing by the insurer and with the County's approval, the deductible limit may be increased to an amount not in excess of the limit established under the usual deductible guidelines of the insurer.
- 8.3.3 All policies procured or maintained under this Section 8.3 of this Agreement must include the following clause: "It is agreed that, in the event of material change or cancellation, this company shall give 10 days' written notice to Clark County at the County Managers Office, copied to the Chief Civil Deputy Prosecutor."
- 8.3.4 Within 60 days of the execution of this Agreement and by January 1 of each year in which this Agreement is in effect, PVJR shall submit evidence that it has procured and maintains insurance coverage as required under this Section 8.3.

8.3.5 PVJR's failure to fully comply with the insurance requirements set forth in this Section 8.3 shall be considered a material breach of this Agreement.

8.3.6 Not more frequently than once every five (5) years, the County may reasonably and in good faith submit a written notice to modify the insurance coverage required under this Section 8.3 to reflect then-current risk management practices in the railroad industry for similar railroads and underwriting practices in the insurance industry. The County's written notice under this Section 8.3.6 must include a statement from an insurance professional attesting to the fact that risk management practices in the railroad industry for similar railroads and underwriting practices in the insurance industry have changed to justify the modification of insurance coverage under this Agreement.

Section 9. Labor.

If any employee shall as a result of this Agreement (a) have a valid claim under employee protection arrangements under applicable orders of the STB, or (b) elect to make a claim against his or her employer/railroad pursuant to any other employee protections arrangement, the parties agree that the employer/railroad shall be solely responsible for any costs of labor protection for its employee(s).

Section 10. Other Government Approvals.

PVJR shall be responsible for obtaining and maintaining any federal, state, or local regulatory agency or department approvals, authorizations, or exemptions from such approvals required to effectuate PVJR's rail operations and this Agreement. The County agrees to cooperate with any and all PVJR requests for governmental approvals or exemptions from approvals, including any appeals taken with respect to administrative or judicial approvals required under this Agreement or by law. Any failure by PVJR to secure or maintain appropriate federal, state, or local regulatory agency or department approvals, authorizations, or exemptions from approvals as required by this Section 10 is a material breach of this Agreement.

Section 11. Representations and Warranties of the County.

The County represents and warrants as of the Effective Date of this Agreement:

- 11.1 It has the full power and authority to enter into this Agreement;
- 11.2 All approvals and other proceedings required to be taken by or on the part of the County to authorize the County to enter into this Agreement have been duly taken, including Council review and approval of this Agreement and the entry of specific written findings supported by the record as required by Chapter 2.33A of the County Code.
- 11.3 This Agreement has been executed and delivered by the County in accordance with its terms and conditions, and constitutes a valid and legally binding obligation of the County, enforceable against the County in accordance with its terms, except as

such enforceability may be limited by (i) bankruptcy, insolvency, reorganization, and similar laws, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefore may be brought;

- 11.4 The terms of this Agreement satisfy the requirements of the County Code, as it exists on the date this Agreement is executed. No provision of this Agreement conflicts with, violates, or contravenes any known statute, law, rule, regulation, order, writ, injunction, or decree or other determination of any court, authority, or governmental body as of the Effective Date, and no provision of this Agreement will conflict with, violate, or contravene any mortgage, lien, lease, or agreement of the County, nor is any provision of this Agreement voidable or unenforceable (nor will it be such) by reason of any provision of, or lack of consent under, any indenture or agreement or instrument to which the County is a party or by which it is bound or affected;
- 11.5 Subsequent to the execution of this Agreement, the County will not knowingly take any action without the written consent of PVJR, which shall not be unreasonably withheld or delayed, that will further encumber the Line of Railroad or that will cause any material diminution in or adversely affect the interests of PVJR in the Line of Railroad or in its condition and serviceability for use by an operating railroad;
- 11.6 As of the Effective Date, the County has sufficient title to the Line of Railroad to permit its continued use as a freight railroad, and the rights granted from the County to PVJR shall be sufficient to allow PVJR to conduct Rail Freight Transportation Service on the Line of Railroad as contemplated by this Agreement;
- 11.7 The County has not granted to any third party the right to conduct Rail Freight Transportation Service or rail passenger or commuter operations on the Line of Railroad. The County has not entered into any agreement that would require PVJR to pay any allowance to any third party, supply equipment to any third party, or incur any expense not incurred in the ordinary course of providing freight rail common carrier transportation service; and
- 11.8 There are no actions, suits, or proceedings pending, or to the County's knowledge threatened, against the County or any of its property in any court or before any governmental agency, which, if adversely determined, could prohibit or delay the consummation of the transactions contemplated in this Agreement or that would adversely affect PVJR's ability to conduct operations (by materially increasing PVJR's costs or otherwise) as contemplated in this Agreement. The representations and warranties in this Section 11.8 exclude any actual or threatened actions, suits, or proceedings among the parties to this Agreement.
- 11.9 The County shall not commence or threaten to commence any action, suit or proceeding in any court, or before any governmental agency, which contends this Agreement is void or invalid in whole or in part. The representations and warranties

in this Section 11.9 constitute a binding representation by the County that it has waived any claim relating to the validity of this Agreement.

- 11.10 The County shall participate and cooperate in the defense of any actions, suits, or proceedings brought by third parties in any court, or before any governmental agency, which contend this Agreement is void or invalid in whole or in part. The representations and warranties in this Section 11.10 may be subject to a claim for specific performance.
- 11.11 To the best of the County's knowledge, the Line of Railroad does not contain, no activity on the Line of Railroad has produced, and the Line of Railroad has not been used in any manner for the storage, discharge, deposit or dumping of hazardous substances, whether in the soil, ground water, or otherwise.
- 11.12 The County shall act with reasonable effort and diligence to cooperate with PVJR, the State of Washington, and federal or other government agencies regarding the timely use of maintenance and upgrade grants dedicated to the Line of Railroad.
- 11.13 All representations and warranties of the County shall remain true and in effect during the Term of this Agreement.

Section 12. Representations and Warranties of PVJR.

PVJR represents and warrants as of the Effective Date of this Agreement:

- 12.1 It is a limited liability corporation duly organized and validly existing in the state of Washington and is in good standing, and is duly qualified to do business in the state of Washington and in any other jurisdiction where the utilization of Line of Railroad requires such qualifications;
- 12.2 It shall have the full power and authority to enter into this Agreement and, upon obtaining appropriate regulatory authority or exemption, to carry out the functions which it has undertaken under this Agreement;
- 12.3 All corporate and other proceedings required to be taken by or on the part of PVJR to authorize PVJR to enter into this Agreement and to perform the Rail Freight Transportation Service have been taken;
- 12.4 This Agreement has been executed and delivered by PVJR in accordance with its terms and conditions, and constitutes a valid and legally binding obligation of PVJR, enforceable against PVJR in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization and similar laws affecting the enforcement of creditor's rights generally, and (ii) the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefore may be brought;

- 12.5 To the best of the PVJR's knowledge, the Line of Railroad does not contain, no activity on the Line of Railroad has produced, and the Line of Railroad has not been used in any manner for the storage, discharge, deposit or dumping of hazardous substances, whether in the soil, ground water, or otherwise.
- 12.6 PVJR shall participate and cooperate in the defense of any actions, suits, or proceedings brought by third parties in any court, or before any governmental agency, which contend the transaction contemplated in this Agreement is void or invalid. The representations and warranties in this Section 12.6 may be subject to a claim for specific performance.
- 12.7 All representations and warranties of PVJR shall remain true and in effect during the Term of this Agreement.

Section 13. Catastrophic Occurrences.

- 13.1 Event. This provision governs the rights and obligations of the parties under circumstances in which PVJR's performance of Rail Freight Transportation Service under this Agreement is prevented by an event beyond its control, and which is without the fault or negligence of PVJR or any of its employees, including acts of God, explosions, fires, vandalism, flood, or any other severe weather disturbance. The parties agree that, if such an event shall occur which substantially impairs PVJR's ability to provide Rail Freight Transportation Service or perform its obligations under this Agreement, PVJR shall use due diligence to continue to perform or to reestablish performance of its obligations under this Agreement. In the event of loss or damage to the Line of Railroad which is covered by property insurance, PVJR agrees to make any necessary claims for insurance proceeds and use such proceeds to repair the damaged Line of Railroad or to defray the expenses incurred as a result of making the repair.
- 13.2 Rights and Obligations. In the event of loss or damage to the Line of Railroad under Section 13.1 that is not covered by or in excess of insurance coverage, PVJR shall not be responsible for repairs in excess of its insurance limits, provided that PVJR shall consult with the County as to the most prudent business decision for PVJR and the County concerning expending additional funds for such repairs taking into account the net cash flow that would be available from revenues from the traffic which would be lost to PVJR if such repairs are not made. If the payments for repairs to the Line of Railroad are in excess of the funds PVJR is required or able to expend for such purpose, including any available funds under any applicable insurance policies, PVJR may (i) request additional funds from the County or others (which the County is under no obligation to provide) to make necessary repairs, and continue to perform Rail Freight Transportation Service, (ii) terminate this Agreement and remit all insurance claims to the County, or (iii) embargo or discontinue service on the affected lines (provided that PVJR shall give prior notice to and receive consent from the County prior to embargoing or seeking authority from the STB to discontinue service on the affected line, which consent shall not be unreasonably withheld). If PVJR has not elected to take action under (i), (ii) or

(iii) of this Section 13, PVJR shall, at the County's option, (a) discontinue service, or (b) operate that portion of the Line of Railroad severed by the catastrophic damage as an island without connection to the remainder of the Line of Railroad upon such conditions as may be mutually agreed to by PVJR and the County, provided that PVJR shall continue to operate the remainder of the Line of Railroad in accordance with this Agreement. If the payments for the repairs to the Line of Railroad are in excess of the funds PVJR is required or able to expend for such purpose, the County also has the right to terminate this Agreement. The County shall be under no obligation to expend funds for repairs to the Line of Railroad.

Section 14. Dispute Resolution.

- 14.1 Negotiation. The parties shall first attempt in good faith to resolve any dispute arising out of or relating in any way to this Agreement promptly by negotiation between representatives with the authority to settle the dispute. Any party may give the other party written notice of any dispute and the other party must provide a written response within fifteen (15) days of receipt. The notice and response shall specify each party's position and a summary of arguments supporting that position. Within thirty (30) days after delivery of the written notice, unless extended by mutual agreement, the parties' representatives shall meet at a mutually acceptable time and place. All offers, promises, conduct, and statements, whether oral or written, made in the course of the negotiation are confidential, privileged, and inadmissible for any purpose in arbitration or any other proceeding involving the parties, unless otherwise required by law.
- 14.2 Mediation. If the dispute is not resolved by negotiation pursuant to subsection 14.1 of this Agreement, the dispute shall next be referred to a mediator mutually agreed upon by the parties. The mediator may determine or specify the rules the mediator deems appropriate. The parties agree to participate in the mediation in good faith and to share equally in its costs. Each party shall bear their own attorney fees associated with the mediation.
- 14.3 Arbitration. If settlement is not reached within sixty (60) days after mediation concludes, either party may then submit a written demand for arbitration to the other party. The dispute shall be submitted to a single neutral arbitrator selected by the parties unless the parties mutually agree to instead submit the dispute to a panel of three arbitrators. If the parties cannot agree to a single neutral arbitrator or if the parties agree to submit the dispute to an arbitration panel, each party shall select one person to act as arbitrator and the two selected arbitrators shall select a third arbitrator. Any arbitrator selected or appointed must either be a retired judge or a lawyer barred in Washington with ten (10) or more years of active practice. If the parties agree to a panel of three arbitrators, the chair of the arbitration panel must be a retired judge. Arbitration proceedings shall be subject to and governed by the rules of the American Arbitration Association. A brief, reasoned award must be rendered within 45 days after the arbitration hearing concludes. An arbitration award is final and binding upon the parties. The parties shall share equally the costs

of arbitration. Each party shall bear their own attorney fees with respect to the arbitration.

- 14.4 Noncompliance. If a party fails to proceed with negotiations, mediation, or arbitration as provided in this Section 14 or fails to comply with an arbitration award, the other party is entitled to any reasonable attorney fees and costs incurred having to compel arbitration or defend or enforce the award.

Section 15. Notices.

All required notices must be in writing and will be considered given when delivered (1) personally, or (2) by registered or certified mail, return receipt requested, addressed as follows (or to any other address that is specified in writing by either party):

If to the County:
Kathleen Otto
County Manager
P.O. Box 5000
Vancouver, WA 98666-5000

If to PVJR:
Portland Vancouver Junction Railroad
Attn. Eric Temple
2265 116th Ave. NE
Suite 210-8
Bellevue, WA 98004

The date of any such notice shall be the date of delivery as prescribed in this Section.

Section 16. Governing Law.

This Agreement will be governed and interpreted by Washington law.

Section 17. Amendment.

The parties can amend this Agreement only by a written document signed by both parties.

Section 18. Interpretation.

- 18.1 Severability. Each provision of this Agreement must be interpreted in a way that is valid under applicable law. If any provision is held invalid, the rest of the Agreement will remain in effect.
- 18.2 Titles and Headings. Titles and headings are inserted in this Agreement for reference purposes only, and must not be used to interpret the Agreement.
- 18.3 Entire Agreement. This Agreement and its attachments contain the entire understanding between the parties, and supersedes all prior agreements, written or

oral, between the parties. If this Agreement is deemed invalid by a court, in whole or in part, and after all available avenues of appeal have been exhausted and the court has issued a final judgment, the parties shall negotiate in good faith to amend this Agreement to address the basis on which the court found the Agreement to be invalid. If after engaging in good faith negotiations, including the dispute resolution procedures in Section 14 of this Agreement, the parties are unable to reach agreement, the December 20, 2004 Lease between Columbia Basin Railroad and the County, as assigned to PVJR on or about February 1, 2012, including related instruments, shall resume in full force and govern and control the parties' respective rights and obligations and the subject matter of this Agreement, with credit for the Term occurring under this Agreement. Should the December 20, 2004 Lease between Columbia Basin Railroad and the County, as assigned to PVJR on or about February 1, 2012, resume in full force and govern and control the parties' respective rights and obligations, nothing contained in this Agreement shall be construed as, or admissible as evidence of, any admission or concession of any claim or defense as between the Parties or any other person or entity.

Section 19. Assignment.

A party cannot assign this Agreement or any right or obligation under this Agreement without the prior consent of the other party, which shall not be unreasonably withheld or delayed, provided that the new operator has the requisite experience and financial ability to operate the rail freight service. Assignment does not relieve either party from performing its obligations under this Agreement, except upon written agreement of the other.

Section 20. Cooperation

Each Party agrees to execute and deliver, or cause to be executed and delivered, such additional or further instruments or documents as may reasonably be requested by the other for the purpose of carrying out the intentions of the Parties hereto. Any reasonable out-of-pocket expense associated with preparing or obtaining the requested material shall be borne by the requesting Party. Each Party agrees to cooperate with the other in effecting the transaction contemplated hereunder, including defending the enforceability and validity of this Agreement.

Section 21. Sale of a Portion of the Real Estate Underlying the Line of Railroad.

If the County sells a portion of the Line of Railroad to a third party or sells the entire Line of Railroad to more than one purchaser, the sale shall be subject to this Lease, and the County shall require, as a condition of the sale, that this Lease be amended so that PVJR shall deal with only one landlord for the purposes of this Lease, and that its liability under this Agreement not be increased as a result of more than one party having an ownership interest in the Line of Railroad. If all or part of the Line of Railroad is sold during the Term, this Agreement will remain in full force and effect. PVJR shall have the right of first refusal to purchase any portion of the Line of Railroad which the County may choose to sell. This right of first refusal allows PVJR to match the price, terms, and conditions of the sale or lease of any portion of the Line of Railroad, the County may negotiate with a third party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the last date appearing below.

CLARK COUNTY

By: Kathleen Otto
Name: Kathleen Otto
Title: County Manager
Date: 12/8/2022

PORTLAND VANCOUVER JUNCTION
RAILROAD

By: [Signature]
Name: Eric Temple
Title: Owner / Manager
Date: 11-23-22

APPROVED AS TO FORM:

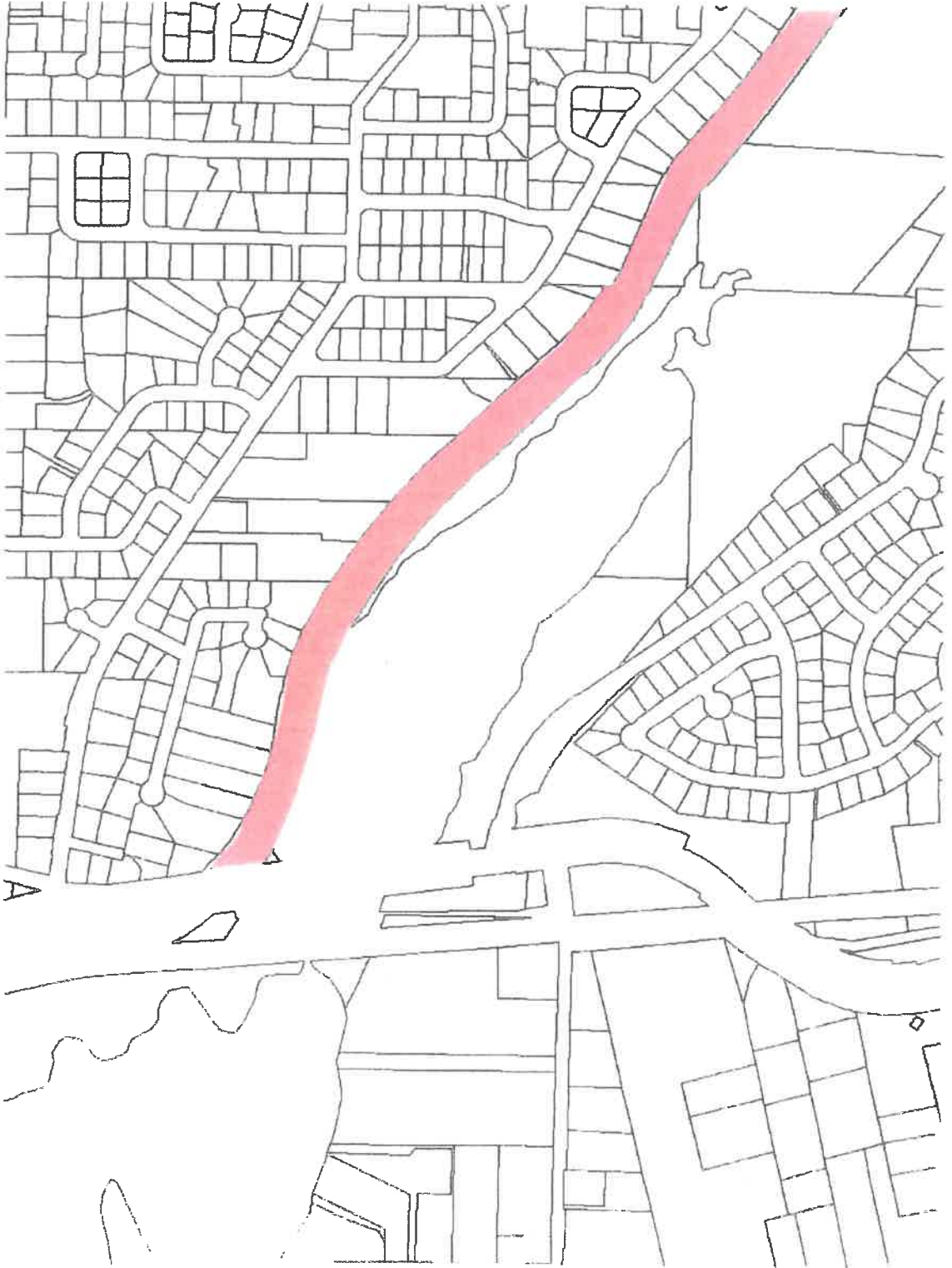
[Signature]
Deputy Prosecuting Attorney

EXHIBIT A

Exhibit -A-

Clark County Rail Corridor

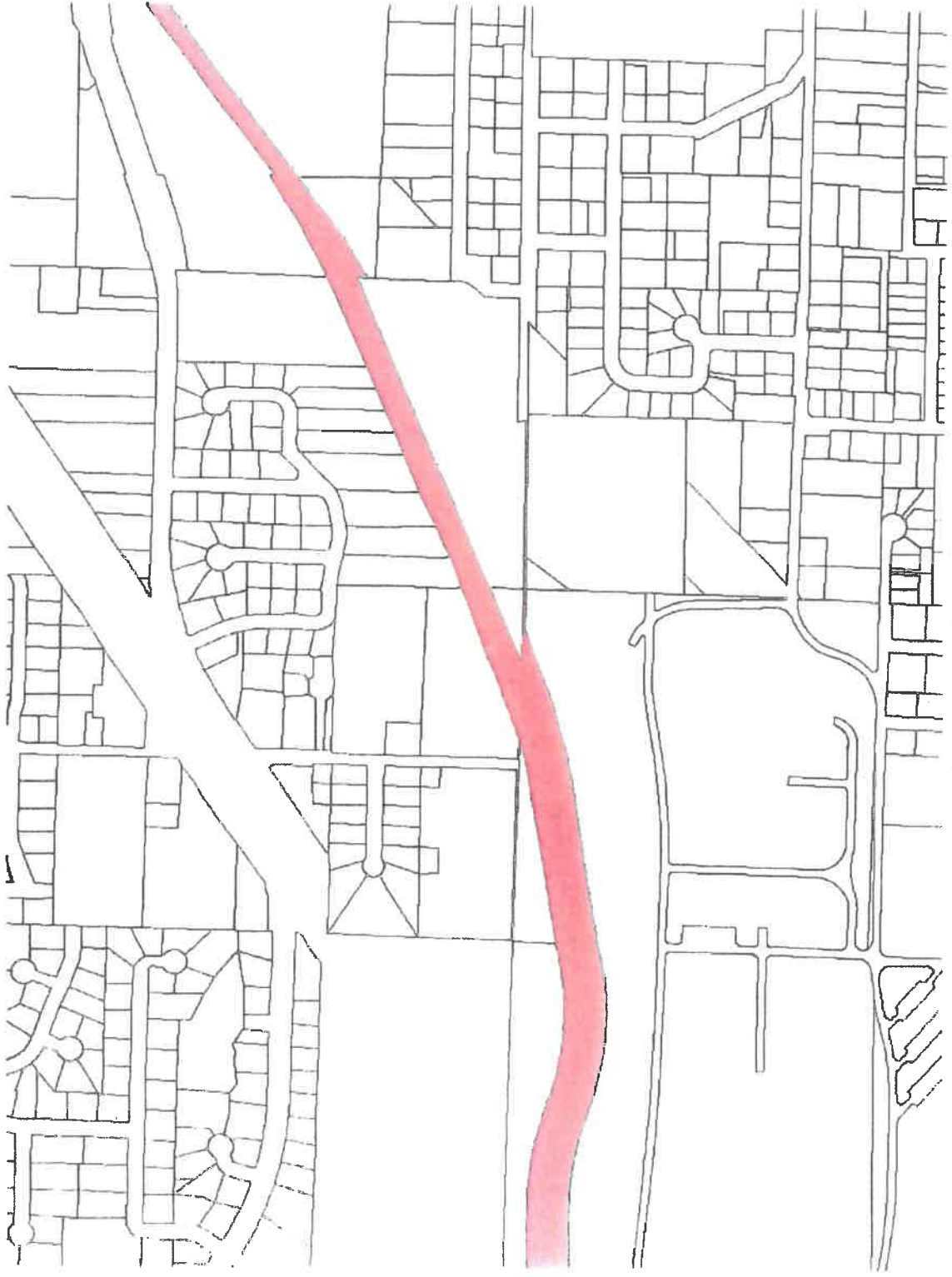
Graphic Map



Clark County Railroad Corridor Exhibit -A- Page 2



Clark County Railroad Corridor Exhibit -A- Page 3



Clark County Railroad Corridor Exhibit -A- Page 4



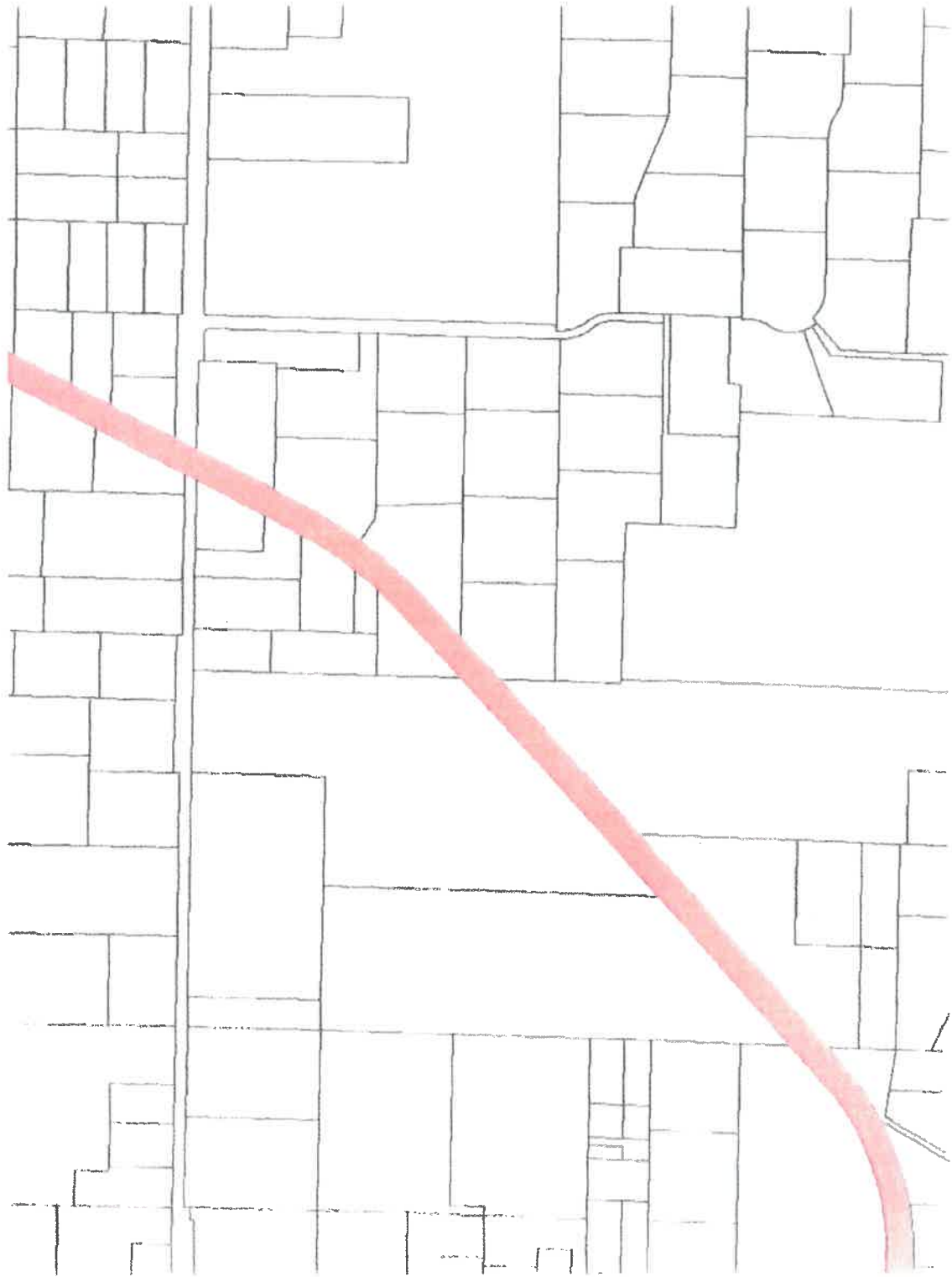
Clark County Railroad Corridor Exhibit -A- Page 5



Clark County Railroad Corridor Exhibit -A- Page 6







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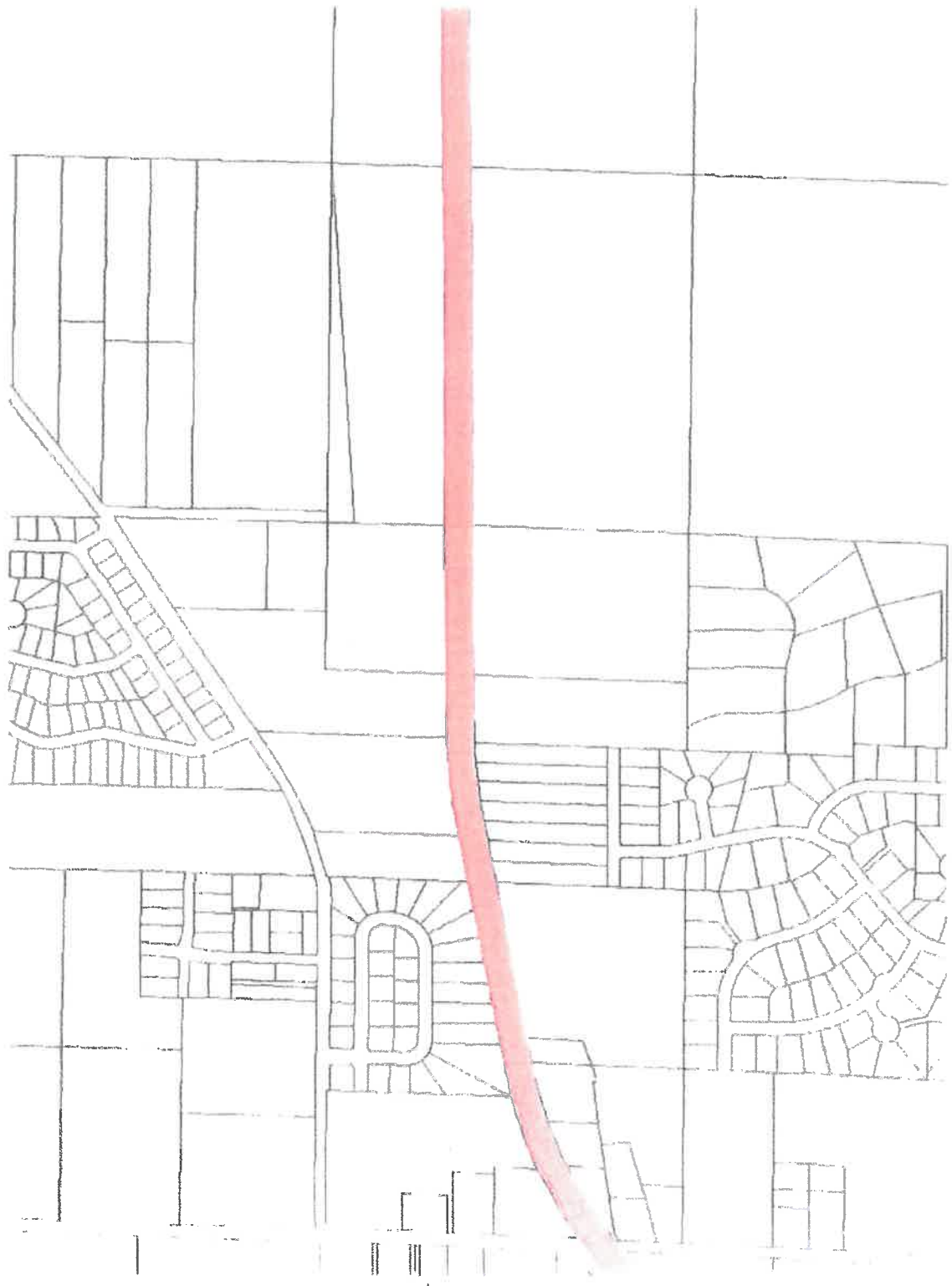






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Clark County Railroad Corridor Exhibit -A- Page 23

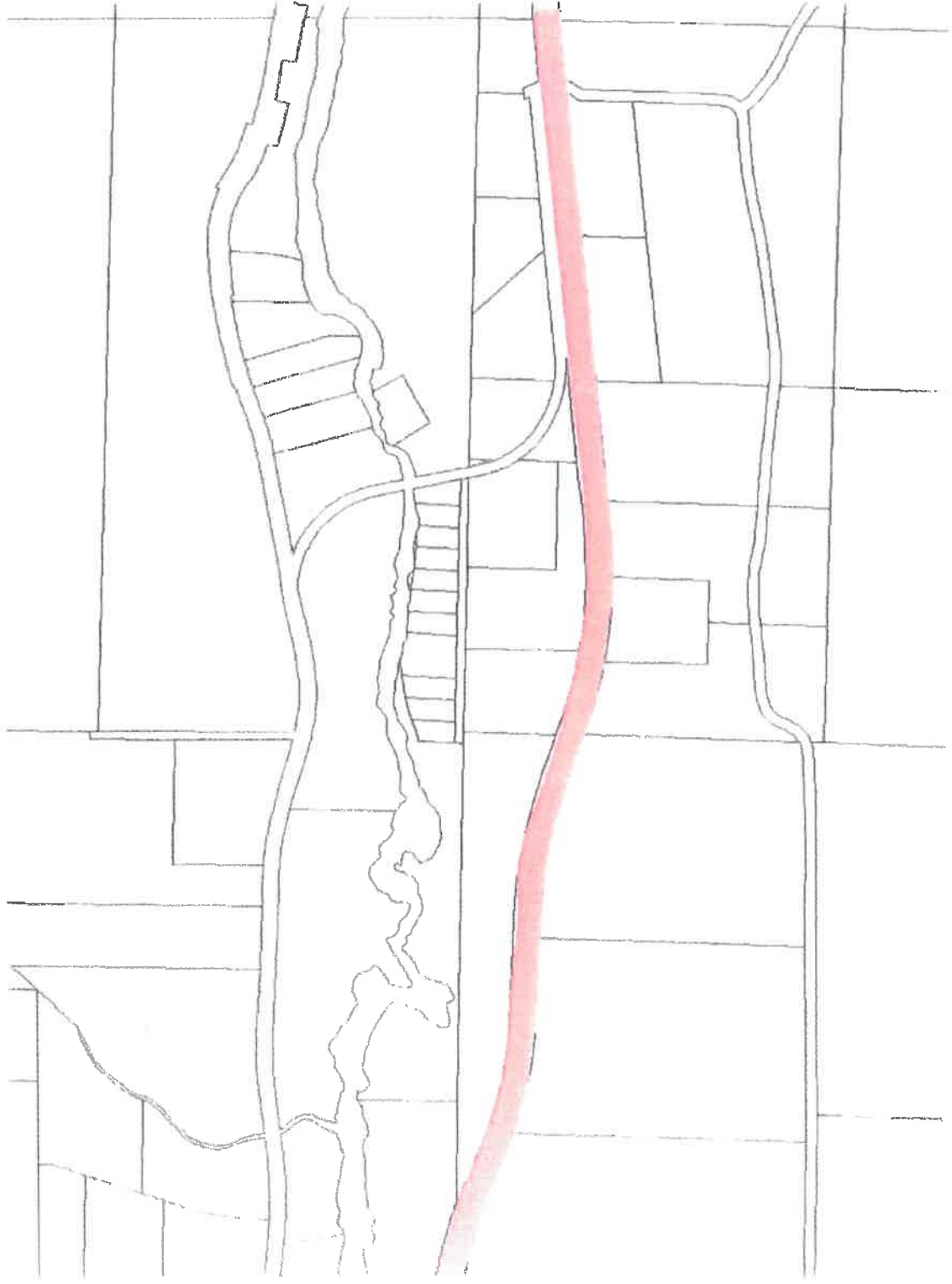


Clark County Railroad Corridor Exhibit -A- Page 24





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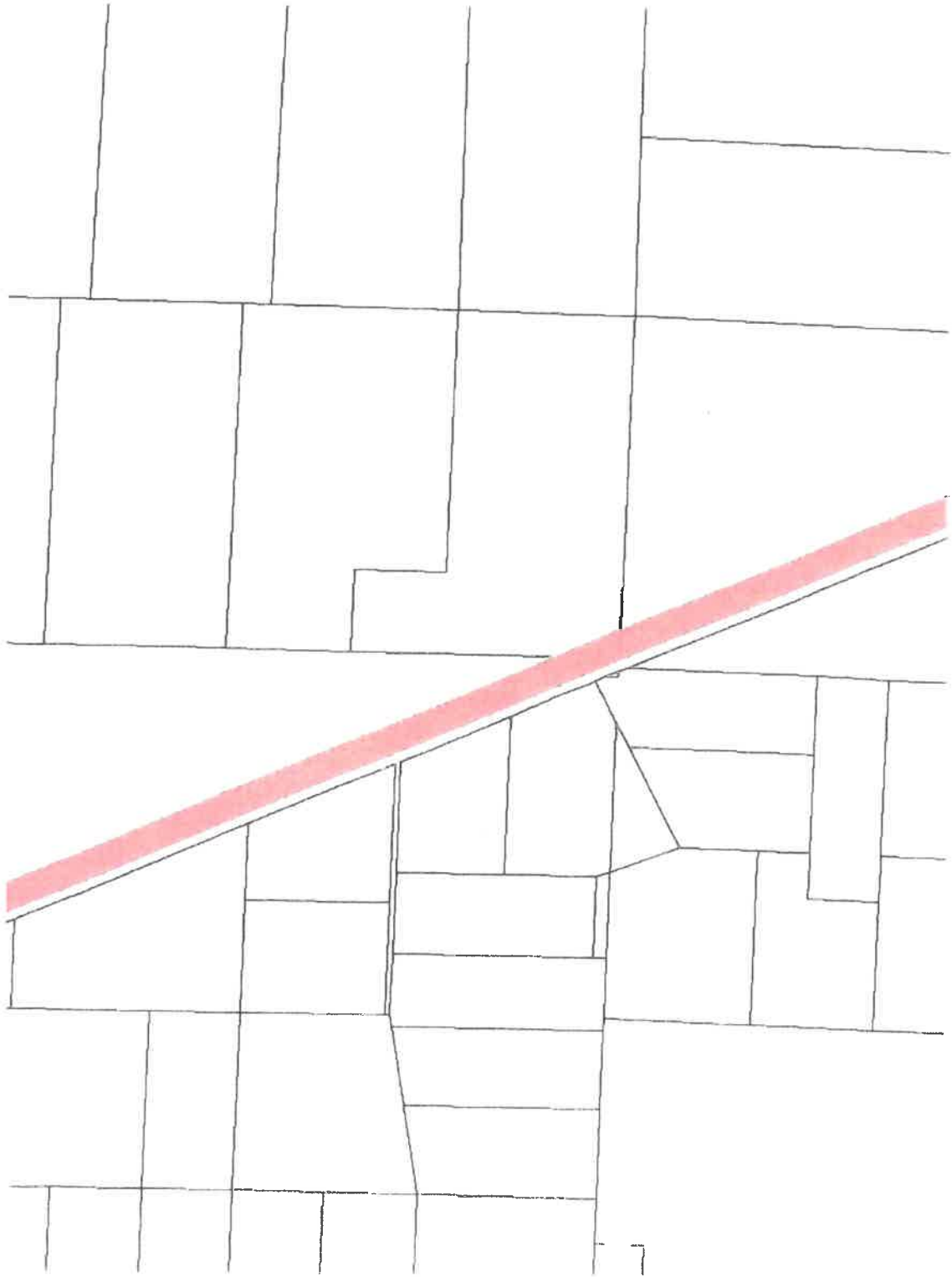


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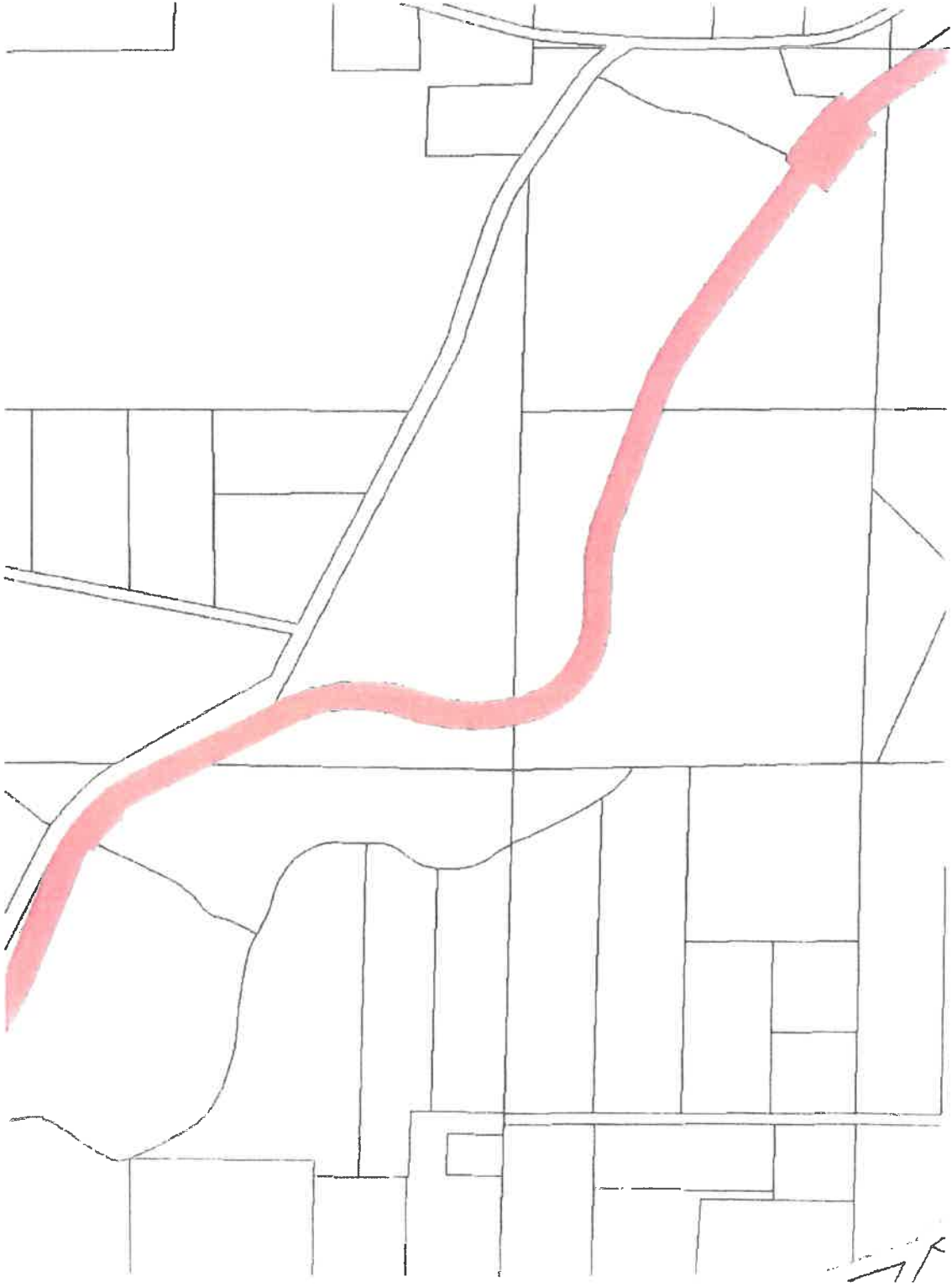
Clark County Railroad Corridor Exhibit -A- Page 32







Clark County Railroad Corridor Exhibit -A- Page 35



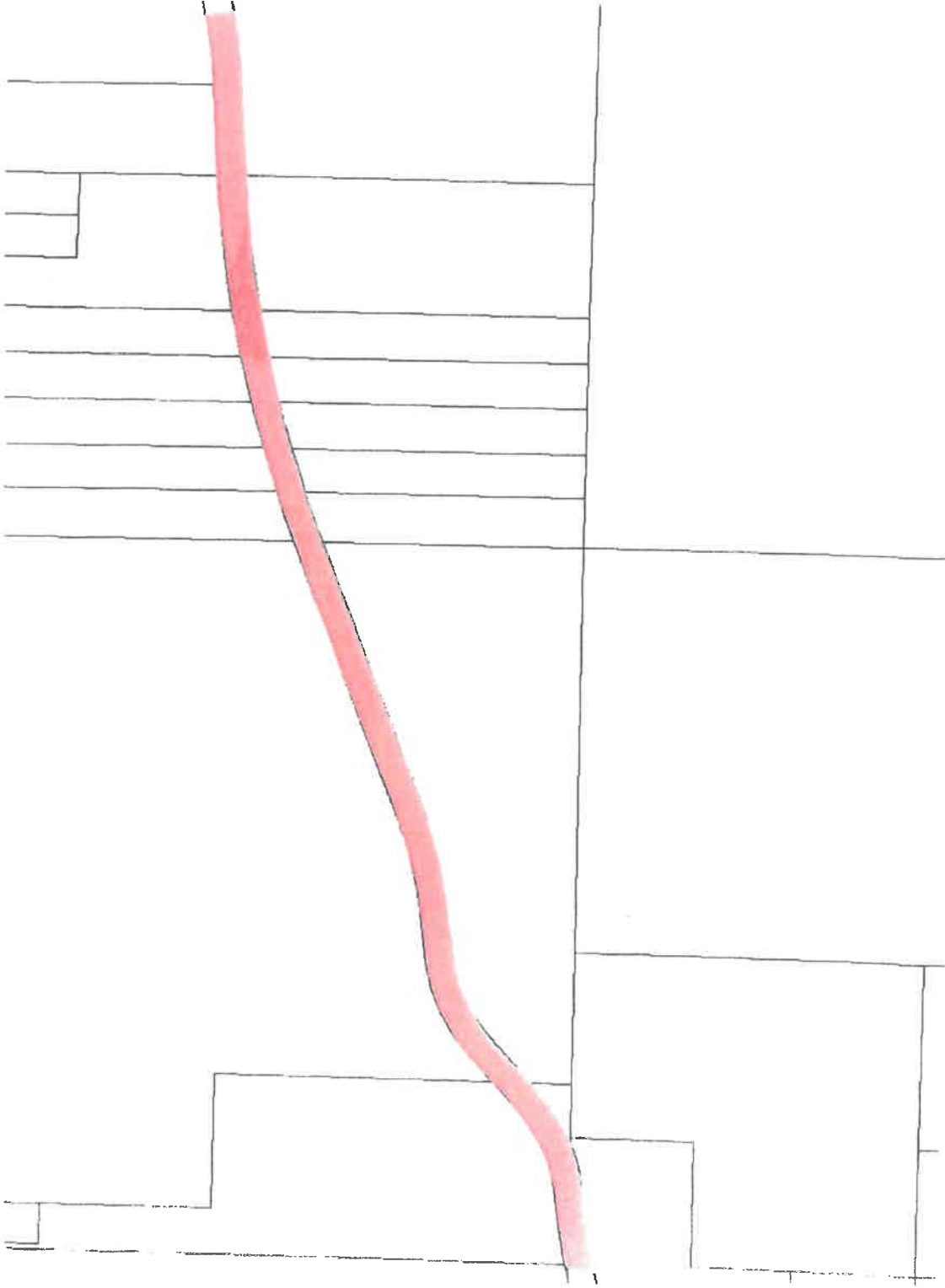
Clark County Railroad Corridor Exhibit -A- Page 36



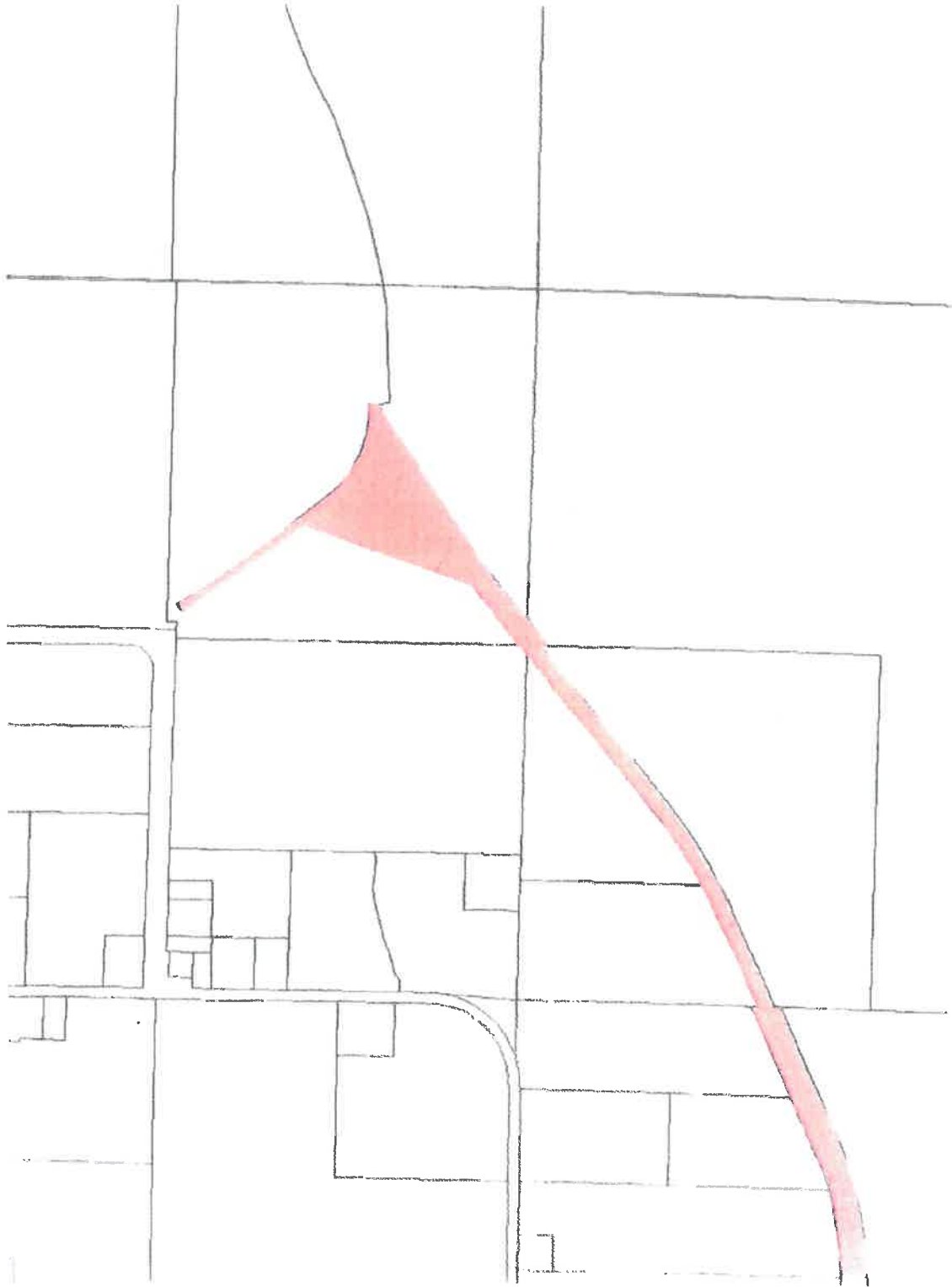


Clark County Railroad Corridor Exhibit -A- Page 38





Clark County Railroad Corridor Exhibit -A- Page 40



"EXHIBIT B"
LEGAL DESCRIPTION OF THE LEASED PREMISES

All that portion of Burlington Northern Railroad Company's (formerly Northern Pacific Railway Company) Vancouver Junction to Rye, Washington Branch Line right of way, varying in width on each side of said Railroad Company's Main Track centerline as now located and constructed upon, over and across Clark County, in the State of Washington, more particularly described as follows, to-wit:

All that portion of said Railroad Company's 150.0 foot wide Branch Line right of way, being 75.0 feet wide on each side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the NE1/4NE1/4, Government Lots 1, 2 and 3 in Section 9, Township 2 North, Range 1 East of the Willamette Meridian, lying 50.0 feet Easterly, as measured radially from said Railroad Company's Kalama to Vancouver, Washington Main Track centerline, as now located and constructed, bounded on the North and East by the North and East lines of said Section 9.

RESERVING, however, unto the said Grantor, its successors and assigns, a railroad easement including the right, privilege and easement to construct, maintain, repair, renew, use, operate over, replace or remove railroad tracks, drainage facilities and appurtenances thereto in, along, over, upon or across that portion of the premises hereinabove described lying Westerly of a line drawn parallel and concentric with and distant 75.0 feet Easterly of, as measured at right angles and radially from the centerline of said Railroad Company's Kalama to Vancouver, Washington Main Track centerline, as now located and constructed. To have and to hold said easement for so long as the same is used or required for railroad purposes and until said Grantor, its successors or assigns, shall remove all such facilities from the said premises with the intent to abandon said easement.

All that portion of said Railroad Company's 150.0 foot wide Branch Line right of way, being 50.0 feet wide on the Northeasterly side and 100.0 feet wide on the Southwesterly side of the centerline of said Branch Line Main Track upon, over and across the SW1/4NW1/4, the Chas. Buker Tract and Lot 3 of the Goss Tract in the SW1/4 of Section 10, Township 2 North, Range 1 East, bounded on the West by the West line of said Section 10 and bounded on the Southeast by the South line of said Chas. Buker Tract and the South and East lines of Lot 3 of said Goss Tract in said SW1/4 of Section 10; also,

Two parcels of land situate in Section 10, Township 2 North, Range 1 East, W.M., conveyed by American & General Mortgage Investment Corp. Ltd. to said Railroad Company and recorded on March 30, 1903 in Book 53 of Deeds at Page 12, Clark County, Washington, described as follows, to-wit:

PARCEL 1:

Beginning at the Northeast corner of Lot 10 of the Goss Tract in said Section 10; thence West 85.0 feet along the North line of said Lot 10; thence Southeasterly to a point on the Northeast line of said Lot 10; thence Northwesterly along the Northeast line of said Lot 10, 310.0 feet to the Point of Beginning.

PARCEL 2:

Beginning at the Southwest corner of Lot 2 of said Goss Tract; thence North along the West line of said Lot 2, 70.0 feet; thence Southeasterly to a point on the South line of said Lot 2; thence West along the South line of said Lot 2, 90.0 feet to the Point of Beginning; also,

A parcel of land situate in Section 10, Township 2 North, Range 1 East W.M., conveyed by Charles Buker et al to said Railroad Company and recorded on May 9, 1903 in Book 3 of Judgments at Page 120, Clark County, Washington, described as follows, to-wit:

Beginning at the Southeast corner of Lot 12 of the Goss Tract in the SW $\frac{1}{4}$ of said Section 10; thence North along the East line of said SW $\frac{1}{4}$, 90.0 feet; thence Northwesterly 50.0 feet from and parallel with said Branch Line Main Track centerline, as now located and constructed, to a point on the North line of said Lot 12; thence West on said North line 140.0 feet to the Northwest corner of said Lot 12; thence Southeasterly along the Southwest line of said Lot 12 to a point 108.0 feet West of the Southeast corner thereof; thence East to the Point of Beginning; also,

All that portion of platted County Road located in Lot 10 of the Goss Tract in the SW $\frac{1}{4}$ of said Section 10, vacated by order of the County Commissioners of Clark County, Washington on March 22, 1915 described as follows, to-wit:

Beginning at the Northeast corner of Lot 10 of the Goss Tract as per duly recorded plat on file in the office of the County Auditor of Clark County, Washington, said point of beginning being the Northwest corner of a platted road as shown upon said plat; thence running South 43° 33' East along the West line of said platted road, 67.51 feet to a point 40.0 feet at right angles to the Southwesterly line of said easement granted to the County of Clark by the Northern Pacific Railway Company; thence South 53° 02' 30" East, said course being parallel with and 40.0 feet at right angles from the Southwesterly line of said easement as granted by said Northern Pacific Railway Company for a distance of approximately 230.0 feet to the Northeasterly line of said platted road; thence running North 43° 33' West along the Northeasterly line of said platted road about 268.0 feet to the Northeast corner of said platted road; thence running West along the North line of said road 55.20 feet, more or less, to the Point of Beginning; also,

A parcel of land situate in Section 10, Township 2 North, Range 1 East, W.M., conveyed by Robert Buker et al to said Railroad Company and recorded on April 28, 1903 in Book 3 of Judgments at Page 116, Clark County, Washington, described as follows, to-wit:

Beginning at the Northeast corner of the Robert Buker Tract of land in the SW $\frac{1}{4}$ of said Section 10; thence South on the East line thereof 118.0 feet; thence Northwesterly 160.0 feet to a point on the North line 108.0 feet West of the point of beginning; thence East on the North line of said Tract 108.0 feet to the Point of Beginning; also,

A parcel of land situate in Section 10, Township 2 North, Range 1 East, W.M., conveyed by Robert Buker et al to said Railroad Company and recorded on August 19, 1904 in Book 57 of Deeds at Page 475, Clark County, Washington, described as follows, to-wit:

Beginning at a point on the East line of the Robert Buker Tract of land in the SW $\frac{1}{4}$ of said Section 10, which point is 118.0 feet South from the Northeast corner of said Tract; thence Northwesterly 160.0 feet to a point on the North line of said Tract 108.0 feet West of said Northeast corner; thence Westerly on said North line 52.0 feet; thence Southeasterly 256.1 feet to a point on the East line of said Tract 200.0 feet South of the Northeast corner thereof; thence North 82.0 feet to the Point of Beginning; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10, Township 2 North, Range 1 East, bounded on the West by the West line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 and bounded on the East by the Easterly right of way line of County Road distant 640.0 feet West of the Southeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$, as measured along the South line of said Section 10; also,

All that portion of said Railroad Company's 150.0 foot wide Branch Line right of way, being 50.0 feet wide on the Northerly side and 100.0 feet wide on the Southerly side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15, all in Township 2 North, Range 1 East, bounded on the West by the Easterly right of way line of County Road distant 640.0 feet West of the Southeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$, as measured along the South line of said Section 10 and bounded on the East by the Easterly line of Highway Easement to the State of Washington as recorded in the records of Clark County in Book D-41 of Deeds at Page 255 on August 23, 1957.

All that portion of said Railroad Company's 160.0 foot wide Branch Line right of way, being 60.0 feet wide on the Northerly side and 100.0 feet wide on the Southerly side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 15 and the N $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 14, all in Township 2 North, Range 1 East, Bounded on the West by the Easterly line of Highway Easement to the State of Washington as recorded in the records of Clark County in Book D-41 of Deeds at Page 255 on August 23, 1957 and bounded on the North by the North line of said Section 14; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and Government Lot 4 of Section 11, Township 2 North, Range 1 East, bounded on the South by the South line of said Section 11 and bounded on the East by the East line of said Government Lot 4; also,

All that portion of said Railroad Company's 60.0 foot wide Branch Line right of way, being 30.0 feet wide on each side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the Wm. P. French D.L. Claim No. 56 in Section 11, Township 2 North, Range 1 East, bounded on the West by the Southeasterly line of the hereinafter described parcel described in document recorded in Book 3 of Judgements at Page 117, Clark County, Washington and bounded on the Northeasterly side by the Northerly line of Highway Easement to Clark County, Washington as recorded in the records of Clark County as Documents No. G-567486 dated January 20, 1971 and G-535406 dated September 28, 1971, also,

A parcel of land situate in said Wm. P. French D.L. Claim No. 56, conveyed by Theodore Buckman et al to said Railroad Company and recorded on April 28, 1903 in Book 3 of Judgments at Page 117, Clark County, Washington, described as follows, to-wit:

Beginning at a point where the North line of said Railroad Company's original right of way intersects the West line of the French Donation Land Claim in Clark County, Washington, being in Section 11, Township 2 North, Range 1 East W.M.; thence Northeasterly along the North line of said right of way 470.0 feet; thence Northwesterly at right angles with the last mentioned line 20.0 feet; thence Southwesterly 440.0 feet to the West line of said Donation Land Claim; thence South on said West line 65.0 feet to the place of beginning; also,

All that portion of said Railroad Company's 66.0 foot wide Branch Line right of way, being 33.0 feet wide on each side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across Government Lot 2 of Section 11 and Government Lots 7 and 8 of Section 12, all of Township 2 North, Range 1 East, bounded on the Southwesterly side by the Northerly line of Highway Easement to Clark County, Washington as recorded in the records of Clark County as Documents No. G-567486 dated January 20, 1971 and G-535406 dated September 28, 1971 and bounded on the Northeasterly side by the East line of said Government Lots 7 and 8; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of the centerline of said Branch Line Main Track, as now located and constructed upon, over and across the John C. Dodd Donation Land Claim No. 60 of Section 12, Township 2 North, Range 1 East, bounded on the Southwesterly side by the West line of said John C. Dodd Donation Land Claim No. 60 and on the Northeasterly side by the East line of the R. W. Davis Tract of said Section 12; also,

All that portion of the following described parcel lying Easterly of a line drawn parallel and concentric with and distant 50.0 feet Easterly of, as measured at right angles and radially from the centerline of said Railroad Company's Kalama to Vancouver, Washington Main Track centerline, as now located and constructed; to-wit:

All tide lands of the second class, owned by the State of Washington, situated in front of, adjacent to or abutting upon the following described uplands:

In front of that part of Lot 1, Section 9, Township 2 North, Range 1 East, W.M., measured along the meander line as follows:

Beginning at the meander corner to fractional Sections 4 and 9, Township 2 North, Range 1 East, W.M., and running thence South $24^{\circ} 30'$ East 13.71 chains to the True Point of Beginning of this description; thence South 56° East 6.40 chains and South $69^{\circ} 30'$ East, 10.0 chains to the terminal point of this description, with a frontage of 16.40 lineal chains; also,

In front of that part of Lot 3, Section 9, Township 2 North, Range 1 East, W.M., measured along the meander line as follows:

Beginning at the point of intersection of the West line of said Lot 3 with said meander line, and running thence South $74^{\circ} 45'$ East 4.97 chains, more or less, to an angle point in said meander line, and South 48° East 4.56 chains to the terminal point of this description, with a frontage of 9.53 lineal chains, more or less;

The two descriptions together having a total frontage of 25.93 lineal chains, more or less, measured along the meander line, according to a certified copy of the government field notes of the survey thereof on file in the office of the Commissioner of Public Lands at Olympia, Washington.

Subject, however to an easement for right of way for county road, heretofore granted to Clark County under its application No. 546.

RESERVING, however, unto the said Grantor, its successors and assigns, a railroad easement including the right, privilege and easement to construct, maintain, repair, renew, use, operate over, replace or remove railroad tracks, drainage facilities and appurtenances thereto in, along, over, upon or across that portion of the premises hereinabove described lying Westerly of a line drawn parallel and concentric with and distant 75.0 feet Easterly of, as measured at right angles and radially from the centerline of said Railroad Company's Kalama to Vancouver, Washington Main Track centerline, as now located and constructed. To have and to hold said easement for so long as the same is used or required for railroad purposes and until said Grantor, its successors or assigns, shall remove all such facilities from the said premises with the intent to abandon said easement; also,

All that portion of said Railroad Company's 150.0 foot wide abandoned Wye Track right of way, being 75.0 feet wide on each side of the centerline of said Wye Track as originally located and constructed upon, over and across said Government Lot 1 in Section 9, bounded on the Northeasterly side by a line drawn parallel and concentric with and distant 75.0 feet Southwesterly, as measured at right angles and radially from the centerline of said Railroad Company's Vancouver Junction to Rye, Washington Branch Line Main Track as now located and constructed and bounded on the Southwesterly side by the Northerly Government Meander Line of Vancouver Lake; also,

A parcel of land situate in Government Lot 3 of Section 9, Township 2 North, Range 1 East, W.M., Clark County, Washington, conveyed by Emma C. Packard, et al, on August 27, 1903 in Book 3 of Judgements at Page 127, described as follows;

A Strip of land through and over Packard & Smith's property in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 9, Township 2 North, Range 1 East, W.M., more particularly described and bounded as follows, to-wit:

Beginning at a point where the West line of said property (being also the East line of County Road) intersects the Meander Line of Vancouver Lake in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 9; thence along said Meander Line South 74° 31' East, 46.0 feet; thence South 48° East, along said Meander Line 8.0 feet; thence in a Southwesterly direction 25.0 feet from and parallel to the centerline of said Railway as now located and staked to an intersection with West line of said property; thence Northerly along said line 114.0 feet to the Point of Beginning.

RESERVING, however, unto the said Grantor, its successors and assigns, a railroad easement including the right, privilege and easement to construct, maintain, repair, renew, use, operate over, replace or remove railroad tracks, drainage facilities and appurtenances thereto in, along, over, upon or across that portion of the premises hereinabove described lying Westerly of a line drawn parallel and concentric with and distant 75.0 feet Easterly of, as measured at right angles and radially from the centerline of said Railroad Company's Kalama to Vancouver, Washington Main Track centerline, as now located and constructed. To have and to hold said easement for so long as the same is used or required for railroad purposes and until said Grantor, its successors or assigns, shall remove all such facilities from the said premises with the intent to abandon said easement.

The following described real property situated in the County of Clark,
State of Washington, to-wit:

TRACT 1:

Beginning at a point 83.3 feet West from the Northeast corner of the Ida Sohns Tract, said point being 280 feet West from the Southeast corner of the Peter Falkerson Donation Land Claim in Section 12, Township 2 North, Range 1 East of the Willamette Meridian; thence South 53°05' West 990 feet parallel with the center line of the main tract of the Northern Pacific Railway Company as the same is now constructed and operated along the lands hereinafter described and 50 feet from the center thereof; thence South 62 1/2 feet to center of said track; thence South 62 1/2 feet; thence North 53°05' East 1098 feet; thence North 64 1/2 feet to the center of said track; thence West 83.3 feet to place of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company for right of way purposes, recorded in Book 44 Deeds, page 2, records of said Clark County, excepting that portion thereof lying Southwesterly of a line at right angles to said main track center line at a point therein at Northern Pacific Railway Company's Railway Station 196+00, and subject to Washington Public Service Commission Order T-9016 dated February 23, 1954 to Clark County permitting highway grade crossing at Northern Pacific Railway Company's Railway Station 196+54.3, and subject to Easement R.W. 5599 dated July 8, 1954 from the Northern Pacific Railway Company to Clark County covering the West 60 feet of the East 301.1 feet of the John C. Dodd Donation Land Claim No. 60 across the above described land.

TRACT 2:

A right of way 60 feet in width, being 30 feet wide on each side of the center line of said main track across the Peter Falkerson Donation Land Claim in said Section 12, Township 2 North, Range 1 East of the Willamette Meridian as set forth in contract for deed to the Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 2 Deeds, page 488, records of said Clark County.

TRACT 3:

A right of way 60 feet in width, being 30 feet wide on each side of the center line of said main track across Government Lot 1 in said Section 12, Township 2 North, Range 1 East of the Willamette Meridian as set forth in deed for right of way to the Vancouver, Klickitat & Yakima Railroad Company, recorded in Volume 38 Deeds, Page 334, records of said Clark County, the same to be used as a right of way for the railroad of said Grantee, subject to Railroad Commission of Washington Order No. 217 dated February 14, 1911 to Clark County permitting highway grade crossing on the section line between Sections 1 and 12, Township 2 North Range 1 East of the Willamette Meridian and subject to Permit No. 24405 dated April 19, 1911 from the Northern Pacific Railway Company to Clark County covering said grade crossing.

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TRACT 4:

A strip of land 100 feet in width, being 50 feet wide on each side of

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the center line of said main track across Government Lot 4, Section 1, Township 2 North, Range 1 East of the Willamette Meridian as set forth in deed to the Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 277, records of said Clark County, subject to Railroad Commission of Washington Order No. 217 dated February 14, 1911 to Clark County permitting highway grade crossing on the Section line between Section 1 and 12, Township 2 North, Range 1 East of the Willamette Meridian and subject to Permit No. 24405 dated April 18, 1911 from the Northern Pacific Railway Company to Clark County covering said grade crossing.

TRACT 5:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across Fractional Southwest quarter of the Southwest quarter of Section 6, Township 2 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Volume 45 Deeds, Page 233, records of said Clark County.

TRACT 6:

A right of way 50 feet in width, being 25 feet wide on each side of the center line of said main track across the Wright Homestead Lots in the Joseph Wright Donation Land Claim No. 54 in said Section 6, Township 2 North, Range 2 East of the Willamette Meridian as set forth in deed of right of way for railroad purposes to Portland, Vancouver and Yakima Railway Company, recorded in Book 38 Deeds, Page 438, records of said County.

TRACT 7:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across Fractional Northeast quarter of the Northwest quarter in said Section 6, Township 2 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 37, records of said Clark County.

TRACT 8:

A right of way over and across a strip of land 50 feet in width, being 25 feet wide on each side of the center line of said main track across Fractional Northwest quarter of the Northeast quarter in said Section 6, Township 2 North, Range 2 East of the Willamette Meridian, as set forth in deed to Vancouver, Klickitat and Yakima Railroad Company, recorded in Book 7 Deeds, Page 100, records of said Clark County.

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TRACT 9:

That portion of the Southwest quarter of the Southeast quarter of Section 31, Township 3 North, Range 2 East of the Willamette Meridian, lying Southeasterly and Southerly of a line concentric and parallel with and distant 25 feet Northwesterly and Northerly, measured radially and at

-Continued-

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right angles, from the center line of said main track, including land as set forth in deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 7 Deeds, Page 104, records of said Clark County.

TRACT 10:

A right of way over and across a strip of land 50 feet in width, being 25 feet wide on each side of the center line of said main tract across the South 1/2 of the Southeast quarter of the Southeast quarter of said Section 31 and across the South 1/2 of the Southwest quarter of the Southwest quarter of Section 32, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 7 Deeds, Page 101, records of said Clark County.

TRACT 11:

A right of way over and across a strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across Government Lots 3, 4 and 5 of said Section 32, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in contract for deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 2 Deeds, Pages 496 & 497, records of said Clark County.

TRACT 12:

That certain strip of land 50 feet in width, lying and being on the Northerly side of the center line of said main track in the Southeast quarter of the Northwest quarter of said Section 32, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railroad Company, recorded in Volume 42 Deeds, Page 206, records of said Clark County.

TRACT 13:

A strip of land 50 feet in width on the Northerly side of the center line of said main tract across the Southwest quarter of the Northeast quarter of said Section 32, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 4, records of said Clark County.

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TRACT 14:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southeast quarter of the Northeast quarter of said Section 32, Township 3 North, Range 2 East of the Willamette Meridian, and across the Northwest quarter of the Northwest quarter and Government Lot 5, Section 33, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 34, records of said Clark County.

-Continued-

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TRACT 15:

That portion of Government Lot 2 of said Section 32, Township 3 North, Range 2 East of the Willamette Meridian, lying Northerly of a line parallel and concentric with and distant 50 feet Southerly, measured at right angles and radially, from the center line of said main track.

TRACT 16:

That portion of the North 1/2 of the James McAllister Donation Land Claim in said Section 33, Township 3 North, Range 2 East of the Willamette Meridian, lying Northwesterly of a line parallel with and distant 50 feet Southeasterly, measured at right angles, from the center line of said main track, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 36, records of said Clark County.

TRACT 17:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northeast quarter of the Northwest quarter of said Section 33, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 277, records of said Clark County.

TRACT 18:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across lots 9, 10, and 12 in McFarlane and Wells Homestead Lots in Section 28, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 5, records of said Clark County.

TRACT 19:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across lot 7 in McFarlane and Wells Homestead Lots in said Section 28, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 3, records of said Clark County.

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TRACT 20:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northwest quarter Southeast quarter of said Section 28, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 11, records of said Clark County.

-Continued-

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TRACT 21:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the following described tract of land: Beginning at the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 28, Township 3 North, Range 2 East of the Willamette Meridian; thence North 8 chains; thence West 25 chains; thence South 8 chains; thence East 25 chains to place of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 6, records of said Clark County.

TRACT 22:

A strip of land 80 feet in width, being 40 feet wide on each side of the center line of said main track across the following described tract of land: Beginning 8 chains North of Southeast corner of the Southwest quarter of the Northeast quarter of Section 28, Township 3 North, Range 2 East of the Willamette Meridian; thence West 25 chains; thence North 8 chains; thence East 25 chains; thence South 8 chains to place of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 17, records of said Clark County.

TRACT 23:

That portion of the following described tract of land lying Easterly of a line parallel and concentric with and distant 40 feet Westerly, measured at right angles and radially from the center line of said main track. Said tract of land is described as follows: Beginning 16 chains North of the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 28; thence West 25 chains; thence North 16 chains; thence East 25 chains; thence South 16 chains to place of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 1, records of said Clark County, subject to Public Service Commission of Washington Order No. 4271 dated December 12, 1916, covering permission to Board of County Commissioners of Clark County to establish highway grade crossing at the intersection of the Laurin or Braddock County road and the Northern Pacific Railway Company's Yacolt Branch track.

TRACT 24:

That portion of the following described tract of land lying Easterly of a line parallel with and distant 40 feet Westerly, measured at right angles, from the center line of said main track. Said tract of land is described as follows: Beginning 4 chains South of the Northeast corner of the Northwest quarter of the Northeast quarter of said Section 28, Township 3 North, Range 2 East of the Willamette Meridian; thence West 25 chains; thence South 4 chains; thence East 25 chains; thence North 4 chains to place of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 15, records of said Clark County.

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TRACT 25:

That portion of the following described tract of land lying Easterly of a line parallel and concentric with and distant 40 feet Westerly, measured at right angles and radially, from the center line of said main track. Said tract of land is described as follows: Beginning at the Northeast corner of the Northwest quarter of the Northeast quarter of said Section 28, Township 3 North, Range 2 East of the Willamette Meridian; thence South 4 chains to J. A. Groats' North line; thence West 25 chains; thence North 4 chains to North line of said Section 28, Township 3 North, Range 2 East of the Willamette Meridian; thence East 25 chains to place of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 28, records of said Clark County.

TRACT 26:

That portion of the East 1/2 of the Northeast quarter of said Section 28, Township 3 North, Range 2 East of the Willamette Meridian, lying Westerly of a line parallel and concentric with and distant 40 feet Easterly, measured at right angles and radially, from the center line of said main track.

TRACT 27:

A strip of land 60 feet in width, being 30 feet wide on each side of the center line of said main track across the South 1/2 of the Southeast quarter of the Northeast quarter of the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 21, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 13 Deeds, Page 404, records of said Clark County.

TRACT 28:

Same property as next above, as set forth in Decree of Condemnation No. 115 dated October 30, 1890 between Vancouver, Klickitat & Yakima Railroad Company, Plaintiff and State of Washington, Defendants, recorded in Book 2 of Judgments, pages 80, 81, 82 and 83, records of said Clark County.

TRACT 29:

That portion of the Southeast quarter of the Northeast quarter of said Section 21, Township 3 North, Range 2 East of the Willamette Meridian, lying Southeasterny of a line parallel with and distant 30 feet North-westerly, measured at right angles, from the center line of said main track, as set forth in deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 13 Deeds, Page 283, records of said Clark County.

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TRACT 30:

right of way 60 feet in width, being 30 feet wide on each side of the center line of said main track across the South 1/2 of the Northwest quarter of Section 22, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Volume 38 Deeds, Page 255, records of said Clark County

TRACT 31:

strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the West half of the Northeast quarter and the Northeast quarter of the Northeast quarter of said Section 22, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 105, records of said Clark County.

TRACT 32:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northwest quarter of the Northwest quarter of Section 23, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 200, records of said Clark County.

TRACT 33:

A strip of land 66 feet in width, being 33 feet wide on each side of the center line of said main track across the Northeast quarter of the Northwest quarter of said Section 23, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 156, records of said Clark County.

TRACT 34:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southeast quarter of the Southwest quarter of Section 14, Township 3 North, Range 2 East of the Willamette Meridian, excepting therefrom a 10-acre tract situated in the Northeast corner of said Southeast quarter of the Southwest quarter owned by A. J. Clapp, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 100, records of said Clark County.

TRACT 35:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the 10 acre tract of land in the Southeast quarter of the Southwest quarter of said Section 14, described as follows: Beginning 10 chains North of the quarter post between Sections 14 and 23, Township 3 North, Range 2 East of the Willamette Meridian; thence West 10 chains; thence North 10 chains; thence East 10 chains; thence South 10 chains to the place of beginning, as set

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forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 103, records of said Clark County

TRACT 36:

A strip of land 66 feet in width, being 33 feet wide on each side of the center line of said main track across the Southwest quarter of the Southeast quarter of said Section 14, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to the Northern Pacific Railway Company, recorded in Book 130 Deeds, Page 259, records of said Clark County.

TRACT 37:

A strip of land 66 feet in width, being 33 feet wide on each side of the center line of said main track across the Northwest quarter of the Southeast quarter of said Section 14, Township 3 North, Range 2 East of the Willamette Meridian as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 276, records of said Clark County.

TRACT 38:

A strip of land 66 feet in width, being 33 feet wide on each side of the center line of said main track across the North 1/2 of the Northeast quarter of the Southeast quarter and the Southeast quarter of the Northeast quarter of said Section 14, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in Decree of Condemnation between Portland, Vancouver and Yakima Railway Company, Plaintiff and Edwin Spires et al, Defendants, dated March 7, 1899 recorded in Book 40 Deeds, Page 284, records of said Clark County, in which Decree there is reserved and excepted to the defendants and their successors the right of way and right of crossing at any point or points along the above-described tract of land where the same will not interfere with the property of the plaintiff or the operation of its railroad.

TRACT 39:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the East 1/2 of the Northeast quarter of the Northeast quarter of said Section 14, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 46 Deeds, Page 149, records of said Clark County.

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TRACT 40:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track, across the Northwest quarter of the Northwest quarter of Section 13, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 101, records of said Clark County.

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TRACT 41:

A strip of land 66 feet in width, being 33 feet wide on each side of the center line of said main track across the Southwest quarter of the Southwest quarter Section 12; across the East 1/2 of the Southeast quarter and the Northwest quarter of the Northeast quarter, Section 11; and across the Southwest quarter of the Southeast quarter of Section 2, all in Township 3 North, Range 2 East of the Willamette Meridian in the deed to Portland, Vancouver and Yakima Railroad Company, as set forth in Volume 44, page 102, records of said Clark County.

TRACT 42:

A strip of land 57 feet in width, in the Northeast quarter of the Southeast quarter of said Section 11, Township 3 North, Range 2 East of the Willamette Meridian, said strip lying on the Southwesterly side of and immediately adjacent to the present 66 foot right of way of the Northern Pacific Railway Company, and lying between 2 lines parallel with and distant respectively 33 feet and 90 feet Southwesterly, measured at right angles, from the center line of said main track, and extending between 2 lines at right angles to said center line at points distant respectively 1930 feet and 2430 feet Northwesterly, measured along said center line, from the South line of said Section or adjoining Section 12, Township 3 North, Range 2 East of the Willamette Meridian, excepting therefrom, however, that portion thereof lying Westerly of the center line of Salmon Creek, ALSO, a strip of land 57 feet in width, in said subdivision, said strip lying on the Northeasterly side of and immediately adjacent to said right of way and lying between 2 lines parallel with and distant respectively 33 feet and 90 feet Northeasterly, measured at right angles, from center line and extending between 2 lines at right angles to said center line at points therein distant respectively 1930 feet and 2430 feet Northwesterly, measured along said center line, from the South line of said Section 11 or adjoining Section 12, as set forth in deed to Northern Pacific Railway Company, recorded in Volume 374 Deeds, Page 203, records of said Clark County.

TRACT 43:

A strip of land 57 feet in width, in the Northeast quarter of the Southeast quarter of said Section 11, said strip lying on the Southwesterly side of and immediately adjacent to the present 66 foot right of way of the Northern Pacific Railway Company, and lying between 2 lines parallel with and distant respectively 33 feet and 90 feet Southwesterly, measured at right angles, from the center line of said main track, and extending between 2 lines at right angles to said center line at points therein distant respectively 1930 feet and 2430 feet Northwesterly, measured along said center line, from the South line of said Section or adjoining Section 12, Township 3 North, Range 2 East of the Willamette Meridian, excepting therefrom, however, that portion thereof lying Easterly of the original center line of Salmon Creek, as set forth in deed to Northern Pacific Railway Company, recorded in Volume 408 Deeds, Page 450, records of said Clark County.

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LEGAL DESCRIPTION:

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TRACT 44:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southeast quarter of the Northeast quarter of said Section 11, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 45 Deeds, Page 226, records of said Clark County.

TRACT 45:

That portion of the Southwest quarter of the Northeast quarter of said Section 11, Township 3 North, Range 2 East of the Willamette Meridian, lying Northeastly of a line parallel with and distant 33 feet Southwestly, measured at right angles from the center line of said main track.

TRACT 46:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southwest quarter of the Northeast quarter and the Northwest quarter of the Southeast quarter of Section 2, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 223, records of said Clark County.

TRACT 47:

That certain three-cornered strip of land 100 feet in width on the North end thereof in the Southeast quarter of the Northwest quarter of said Section 2, Township 3 North, Range 2 East of the Willamette Meridian, to be used for railroad purposes and more particularly described as follows, to-wit: Beginning at the Northeast corner of said Southeast quarter of the Northwest quarter and running thence west 100 feet, thence in a South or Southeastly direction, parallel with the center line of said main track and distant 50 feet, more or less, from said center line, to a point on the North and South line through the center of said section; thence North along the center line of said Section to the point of beginning, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 53 Deeds, Page 70, records of said Clark County.

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TRACT 48:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the South 1/2 of the Northeast quarter of the Northwest quarter of said Section 2, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 235, Auditor's No. 3297, records of said Clark County.

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LEGAL DESCRIPTION:

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TRACT 49:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the North 1/2 of the Northeast quarter of the Northwest quarter of said Section 2, Township 3 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company recorded in Book 51 Deeds, Page 239, Auditor's No. 3298, records of said Clark County.

TRACT 50:

Beginning on the North line of Section 2, Township 3 North, Range 2 East of the Willamette Meridian at a point 50 feet West of the center line of said main track, running thence Southerly parallel with said center line 1000 feet; thence West 20 feet; thence Northerly and parallel to said center line 1000 feet; thence East 20 feet to the point of beginning, as set forth in deed, recorded in Volume 53 Deeds, Page 286, records of said Clark County.

TRACT 51:

A tract of land 25 feet by 40 feet being on the East side of Wooden Creek and in Fractional Northeast quarter of the Northwest quarter of said Section 2, Township 3 North, Range 2 East of the Willamette Meridian, more particularly described as follows: Beginning at a point 370 feet West and 25 feet North of the Southwest corner of Block 3, Richter's Addition to Battle Ground; thence West 25 feet; thence South 40 feet; thence East 25 feet; thence North 40 feet to point of beginning, together with right of access and the right to lay and maintain a pipe line from said tract to the right of way of said Railway Company and the right to maintain the pipe line now constructed from said tract of land to Wooden Creek, as set forth in deed to Northern Pacific Railway Company, recorded in Book 137 Deeds, Page 461, records of said Clark County.

TRACT 52:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the East 1/2 of the East 1/2 of the South 1/2 of the Southwest quarter of Section 35, Township 4 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 475, records of said Clark County.

TRACT 53:

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A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northeast quarter of the Southwest quarter of said Section 35, Township 4 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 232, records of said Clark County.

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LEGAL DESCRIPTION:

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TRACT 54:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northwest quarter of the Southeast quarter of said Section 35, Township 4 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 247, records of said Clark County.

TRACT 55:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northeast quarter of the Southeast quarter of said Section 35, Township 4 North, Range 2 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 225, records of said Clark County.

TRACT 56:

The right to occupy for purposes of right of way under the terms and provisions of certificate of right of way from the State of Washington, recorded in Book 53, page 71, records of said Clark County, the following described real property: A strip of land 100 feet in width extending through Section 36, Township 4 North, Range 2 East of the Willamette Meridian, being 50 feet on either side of the center line of the Portland, Vancouver and Yakima Railway Company's line, over and across said Section; said center line being described as follows: Beginning at a point on the West boundary line of said Section 36, said point being 478.3 feet South of the quarter section corner on said Section line; thence North $87^{\circ}40'$ East (variation 24° East), 2404 feet; thence by a 3° curve to the left having a central angle of $42^{\circ}21'$ a distance of 1411.6 feet; thence North $45^{\circ}19'$ East on a tangent to said curve 1264.4 feet to intersection with the East boundary line of said Section 36, at a point 1040 feet South of the Northeast corner thereof.

TRACT 57:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across Fractional Northwest quarter of the Northwest quarter of Section 31, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 238, records of said Clark County.

TRACT 58:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northeast quarter of the Northwest quarter and Fractional Northwest quarter of the Northwest quarter of said Section 31, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in consent for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 41 Deeds, page 22, records of said Clark County.

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LEGAL DESCRIPTION:

ORDER NO.: 147975

TRACT 59:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the East 1/2 of the Southwest quarter and that portion of the West 1/2 of the Southeast quarter of Section 30, Township 4 North, Range 3 East of the Willamette Meridian, lying Westerly of the Sarah McCollum property, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Volume 51 Deeds, Page 264, records of said Clark County.

TRACT 60:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the following described premises, to-wit: Commencing 90 rods West of the Southeast corner of said Section 30, Township 4 North, Range 3 East of the Willamette Meridian, thence North 160 rods; thence West 50 rods; thence South 160 rods; thence East 50 rods to the place of beginning, as set forth in deed for right of way proposes only to Portland, Vancouver and Yakima Railway Company, recorded in Volume 51 Deeds, Page 223, records of said Clark County.

TRACT 61:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southwest quarter of the Northeast quarter of said Section 30, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 222, records of said Clark County.

TRACT 62:

That portion of the Northwest quarter of the Northeast quarter of said Section 30, Township 4 North, Range 3 East of the Willamette Meridian, lying Southwesterly of a line parallel with and distant 50 feet Northeastly, measured at right angles, from the center line of said main track, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Volume 51 Deeds, Page 264, records of said Clark County.

TRACT 63:

That portion of the Southeast quarter of the Northwest quarter of said Section 30, Township 4 North, Range 3 East of the Willamette Meridian, lying Northeastly of a line parallel with and distant 50 feet Southwesterly, measured at right angles, from the center line of said main track, subject to Department of Public Service of Washington Order No. FH-7704 dated August 2, 1943 permitting State of Washington Department of Highways to construct and maintain grade crossing of said main track with Secondary State Highway No. 1-S in the Northwest quarter of Section 30, and subject to Easement R.W. 4374 dated September 17, 1943 from the Northern Pacific Railway Company to the State of Washington granting the above-described right of way for said Secondary State Highway No. 1-S.

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LEGAL DESCRIPTION:

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TRACT 64:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the North 1/2 of the Northwest quarter of said Section 30, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 238, records of said Clark County, subject to Department of Public Service of Washington Order No. FH-7704 dated August 2, 1943 permitting State of Washington Department of Highways to construct and maintain grade crossing of said main track with Secondary State Highway No. 1-S in the Northeast quarter of the Northwest quarter of said Section 30, and subject to Easement R.W. 4374 dated September 17, 1943 from the Northern Pacific Railway Company to the State of Washington granting portion of above-described right of way for said Secondary State Highway No. 1-S.

TRACT 65:

A right of way over that portion of the Southeast quarter of the Southwest quarter of Section 19, Township 4 North, Range 3 East of the Willamette Meridian, lying Southwesterly of a line parallel with and distant 50 feet Northeasterly, measured at right angles, from the center line of said main track, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 20, records of said Clark County.

TRACT 66:

A right of way 100 feet in width, being 50 feet wide on each side of the center line of said main track as originally constructed across the West 1/2 of the Southwest quarter of said Section 19, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Vancouver, Klickitat & Yakima Railroad Company, recorded in Book 44 Deeds, Page 18, records of said Clark County.

TRACT 67:

A strip of land 50 feet in width on the Northwesterly side of and adjacent to the present 100 foot right of way in Government Lot 3 (Northwest quarter of the Southwest quarter) of said Section 19, Township 4 North, Range 3 East of the Willamette Meridian, being that portion of said subdivision lying between 2 lines parallel with and distant respectively 50 feet and 100 feet Northwesterly, measured at right angles, from the center line of said main track as originally constructed and between the North line of said Government subdivision and a line at right angles to said center line at a point therein distant 3890 feet Southerly, measured along said track center line, from the North line of said Section, as set forth in deed to Northern Pacific Railway Company, recorded in Volume 346 Deeds, Page 157, records of said Clark County.

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LEGAL DESCRIPTION:

ORDER NO.: 147975

TRACT 68:

An undivided one-third interest in a strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track as originally constructed across the South 1/2 of the Northwest quarter of said Section 19, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 33, records of said Clark County.

TRACT 69:

An undivided two-thirds interest in a strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track as originally constructed across the South 1/2 of the Northwest quarter of said Section 19, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 35, records of said Clark County.

TRACT 70:

A strip of land 50 feet in width on the Northwesterly side of and adjacent to the present 100 foot right of way in the South half of the Northwest quarter of said Section 19, Township 4 North, Range 3 East of the Willamette Meridian, being that portion of said subdivisions lying between 2 lines parallel with and distant respectively 50 feet and 100 feet Northwesterly, measured at right angles, from the center line of said main track as originally constructed and between the South line of said subdivisions and a line at right angles to said center line at a point therein distant 1670.7 feet Southerly, measured along said track center line, from the North line of said Section, as set forth in deed to Northern Pacific Railway Company, recorded in Volume 346 Deeds, Page 55, records of said Clark County.

TRACT 71:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the North 1/2 of the Northwest quarter of said Section 19, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in Decree of Condemnation between Portland, Vancouver and Yakima Railway Company, as Plaintiff, and C. C. Byrne, and wife, as Defendants, dated September 26, 1901, recorded in Book 3 of Judgments, Page 102, records of said Clark County.

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TRACT 72:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southwest quarter of Section 18, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 224, records of said Clark County.

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LEGAL DESCRIPTION;

ORDER NO.: 147975

TRACT 73:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southeast quarter of the Northwest quarter of said Section 18, Township 4 North, Range 3 East of the Willamette Meridian.

TRACT 74:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the South 1/2 of the Northeast quarter of said Section 18, Township 4 North, Range 3 East of the Willamette Meridian, and across the Southwest quarter of the Northwest quarter of Section 17, in said township and range, as set forth in deed for so long as used for railroad purposes to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 98, records of said Clark County.

TRACT 75:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the East 1/2 of the Northwest quarter of said Section 17, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 238, records of said Clark County.

TRACT 76:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the North 1/2 of the Northeast quarter of said Section 17, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 27, records of said Clark County, which land was excepted in conveyance of the Northeast quarter of said Section 17 by the Northern Pacific Railway Company to John P. Phillips of Portland, Oregon, by deed dated January 23, 1905, recorded in Volume 60 Deeds, Page 302, records of said Clark County.

TRACT 77:

A right of way 100 feet in width, being 50 feet wide on each side of the center line of said main track in the Southwest quarter of the Southwest quarter of Section 9, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, page 440, records of said Clark County.

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LEGAL DESCRIPTION:

ORDER NO.: 147975

TRACT 78:

A strip of land 100 feet in width, reserved and excepted in deed executed by Northern Pacific Railway Company to John P. Phillips, recorded in Volume 60 Deeds, Page 302, records of said Clark County, over and across the Northeast quarter of Section 17, Township 4 North, Range 3 East of the Willamette Meridian, excepting therefrom, however, a strip of land extending through the same (or so much of such strip of land as may be within said last described premises) of the width of 100 feet lying between 2 lines each drawn parallel to and distant 50 feet from the center line of the main track of the Northern Pacific Railway Company as the same is now located, constructed and operated on, over and across said described premises, or within 50 feet of same.

TRACT 79:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the North 1/2 of the North 1/2 of Section 15, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 238, records of said Clark County.

TRACT 80:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northwest quarter of Section 14, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed for so long as used for railroad purposes to Portland, Vancouver and Yakima Railway Company, recorded in Book 53 Deeds, Page 459, records of said Clark County, subject to Public Service Commission of Washington Order No. 5039 dated May 21, 1920 permitting Board of County Commissioners of Clark County to establish grade crossing at intersection of said main track with Heisson Yakole Road in the Northwest quarter of said Section 14.

TRACT 81:

A strip of land 125 feet in width, being 50 feet wide on the Northerly side and 75 feet wide on the Southerly side of the center line of said main track across the Northeast quarter of said Section 14, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed for legitimate railroad purposes to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 440, records of said Clark County.

TRACT 82:

A right of way over a strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northwest quarter of Section 13, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 37, records of said Clark County.

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LEGAL DESCRIPTION:

ORDER NO.: 147975

TRACT 83:

That portion of the Southeast quarter of the Southwest quarter of Section 12, Township 4 North, Range 3 East of the Willamette Meridian, lying Southwesterly of a line parallel with and distant 50 feet Northeasterly, measured at right angles, from the center line of said main track,

TRACT 84:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the West 1/2 of the Southwest quarter and across the South 6 rods (99 feet) of the Southwest quarter of the Northwest quarter of Section 12, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed for right of way to Portland, Vancouver and Yakima Railway Company, recorded in Book 51 Deeds, Page 222, records of said Clark County, subject to Public Service Commission of Washington Order No. 1790 dated October 7, 1915 permitting Board of County Commissioners, Clark County to establish grade crossing of said main tract near the line between Sections 11 and 12, said township and range.

TRACT 85:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northeast quarter of the Southeast quarter of Section 11, Township 4 North, Range 3 East of the Willamette Meridian and across a 20 acre Tract A in the Southwest quarter of the Northwest quarter of said Section 12, as set forth in deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 40 Deeds, Page 329, records of said Clark County.

TRACT 86:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southeast quarter of the Northeast quarter of said Section 11, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 53, records of said Clark County, subject to Public Service Commission of Washington Order No. 1790 dated October 7, 1915 permitting Board of County Commissioners Clark County to establish grade crossing of said main track near the line between Sections 11 and 12, said township and range.

TRACT 87:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Northeast quarter of the Northeast quarter of said Section 11 and across the Southeast quarter of the Southeast quarter and the Northwest quarter of the Northeast quarter of Section 11, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed for right of way to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 53, records of said Clark County.

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TRACT 88:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southwest quarter of the Southeast quarter of said Section 2, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in deed for right of way to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 12, records of said Clark County.

TRACT 89:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the Southeast quarter of the Northwest quarter and the Southwest quarter of the Northeast quarter of said Section 2, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 39, records of said Clark County.

TRACT 90:

A strip of land 100 feet in width, being 50 feet wide on each side of the center line of said main track across the the Northeast quarter of the Northwest quarter of said Section 2, Township 4 North, Range 3 East of the Willamette Meridian, as set forth in contract for deed to Portland, Vancouver and Yakima Railway Company, recorded in Book 44 Deeds, Page 41, records of said Clark County, subject to Easement dated December 21, 1914 from the Northern Pacific Railway Company to the Town of Yacolt granting right to maintain a street or roadway between lines parallel with and distant 30 feet Southerly and 30 feet Northerly of the Township line between Townships 4 and 5 North across the 400 foot right of way of the Railway Company in the Southwest quarter of the Southwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian, and across the 100 foot right of way in the Northeast quarter of the Northwest quarter of said Section 2.

TRACT 91:

A strip of land 400 feet in width, being 200 feet wide on each side of the center line of said main track across the West 1/2 of the Southwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian; also all that tract of land in the Southwest quarter of the Southwest quarter of said Section 35 adjoining the 400 foot strip on the Northeast side, and being included between a line lying Southerly of the Southerly leg of the wye track of the North Pacific Railway Company, as now constructed, and parallel and concentric with and distant 50 feet therefrom, and a line lying Northerly of the Northerly leg of said wye track and parallel and concentric with and distant 50 feet therefrom which land was excepted in the conveyance of the West 1/2 of the Southwest quarter of said Section 35 by the Northern Pacific Railway Company to Nevertauser Timber Co., dated April 12, 1906, recorded in Volume 62 Deeds, Page 346, records of said Clark County, subject to Easement dated December 21, 1914 from the Northern Pacific Railway Company to the Town of Yacolt granting right to maintain a street or roadway between lines parallel with and distant 30 feet Southerly and 30 feet Northerly of the township line between Townships 4 and 5 North across the 400 foot right of way of the Railway Company in the Southwest quarter

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of the Southwest quarter of said Section 35 and across the 100 foot right of way in the Northeast quarter of the Northwest quarter of said Section 2, also subject to Department of Public Works of Washington Order No. 5797 dated March 6, 1925, permitting establishment of grade crossing at intersection of Murphy Timber Co.'s logging railway with County Road along the West line of said Section 35.

EXCEPT that portion conveyed to Clark County, Washington, by instrument recorded under Auditor's File No. 8411010013.

TRACT 92:

A strip of land 45 feet in width, being 15 feet wide on the Northerly and 30 feet wide on the Southerly side of the center line of the tail track of the wye of the Northern Pacific Railway Company as said tail track is constructed and operated over and across the Southeast quarter of the Southwest quarter and over and across a portion of the Southwest quarter of the Southeast quarter of said Section 35, Township 5 North, Range 3 East of the Willamette Meridian, extending from the West line of said Southeast quarter of the Southwest quarter Easterly to a line at right angles to said tail track center line at a point distant 2730 feet Northeasterly and Easterly from the Southerly headblock of said wye track; said last named distance being measured along the center line of the Southerly leg of the wye and along said tail track center line, as set forth in deed to Northern Pacific Railway Company, recorded in Book 158 Deeds, Page 631, records of said Clark County, subject to Easement R.W. 5389 dated June 2, 1952 from Northern Pacific Railway Company to Harbor Plywood Corp. for a standard gauge railroad track upon that portion of said 45 foot strip of land and other lands described as follows: A strip of land lying between the lines parallel with and distant respectively 7 feet and 22.5 feet Northerly, measured at right angle, from the center line of the Railway Company's tail track as located and constructed, and between two lines at right angles to said tail track center line at points therein designated as Railway Company's Eng'r stations 13+40, and 31+30, as set forth in easement recorded in Volume 552 Deeds, Page 275, records of said Clark County.

TRACT 93:

A strip of land 45 feet wide and 500 feet long, being that portion of the Southwest quarter of the Southeast quarter of said Section 35, Township 5 North, Range 3 East of the Willamette Meridian, described as follows: Beginning at the most Easterly corner of that portion of the Northern Pacific Railway Company's wye tail track right of way acquired by said deed recorded in Book 168 Deeds, Page 631; thence Southeasterly along a Southeasterly production of the Northeasterly line of said tail track right of way a distance of 500 feet; thence Southwesterly at right angles a distance of 45 feet; thence Northwesterly at right angles a distance of 500 feet; thence Northeasterly at right angles a distance of 45 feet to the place of beginning, as set forth in easement to Northern Pacific Railway Company, recorded in Volume 536 Deeds, Page 67, records of said Clark County, subject to Easement R.W. 5389 dated June 2, 1952 from Northern Pacific Railway Company to Harbor Plywood Corp. for a standard gauge railroad track upon that portion of said 45 foot strip of land and other lands described as follows: A strip of land lying between two lines parallel with and distant respectively 7 feet and 22.5 feet

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Northerly, measured at right angles, from the center line of the Railway Company's tail track, as located and constructed, and between two lines at right angles to said tail track center line at points therein designated as Railway Company's Engr. stations 13+40 and 31+30, as set forth in easement recorded in Volume 552 Deeds, Page 275, records of said Clark County, the same constituting all of the right of way of that part of the Yacolt Branch of railroad of the Northern Pacific Railway Company extending from Mile Post 3+3258 (Northern Pacific Station 196+00) on said Yacolt Branch to the end thereof at Yacolt, Clark County, Washington.

TRACT 94:

Beginning at the intersection of the Northerly line of the Northern Pacific Railway Right of Way with the East line of the Southwest quarter of the Southwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian (being the Southerly corner of the N. R. Rashford tract, as conveyed by deed recorded under County Auditor's File No. F 78227); thence North 160 feet; thence South 16° West 125 feet; thence South 34° West 100 feet; and thence Northeasterly to the point of beginning.

TRACT 95:

A strip of land 45 feet in width extending 45 feet East from the West boundary of the Southeast quarter of the Southwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian, the said West boundary of the Southeast quarter of the Southwest quarter of Section 35, also being the West boundary of the Anna Minuth property; said strip of land shall extend from the North edge of the Northern Pacific Railway Right of Way Northward for a distance of 500 feet to the North boundary of the Southeast quarter of the Southwest quarter of said Section 35.

TRACT 96:

A strip of land for railway right of way in the Northeast quarter of the Southwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian, lying along the West edge of the above described 40 acre tract as follows:
Beginning at the Southwest corner of the said 40 acre tract the right of way will extend North for 500 feet having a width of 60 feet; thence North for 820 feet having a width of 200 feet to the North boundary of the tract.

TRACT 97:

A strip of land from 60 to 100 feet in width extending from 20 to 50 feet to the sides of the following described tract center line as now located and surveyed.
Beginning at Engineers Station 13 plus 97 a point on the South boundary of the Northwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian, said point being 1488.3 feet East of the West quarter corner of said Section 35; thence North 9° East for 160 feet;

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thence around a 3° curve to the left for 658.8 feet; thence North 10°46' West for 154.5 feet to Station 36 plus 70.3 a point on the East boundary of the County Road 1534 feet East of the West boundary of said Section 35. The width of the right of way at Station 23 plus 97 shall be 100 feet extending 50 feet to each side of the tract center line; for the next 300 feet the width tapers uniformly to a width of 20 feet on the West side and 40 feet on the East side of said center line at Station 26 plus 97; from Station 26 plus 97 to Station 36 plus 70.3 the width shall continue to be 20 feet on the West and 40 feet on the East of said center line; Length of right of way 1273.2 feet.

TRACT 98:

A strip of land 100 feet in width extending 20 feet on the East side and 80 feet on the West side of the following described center line as now located and surveyed to-wit:

Beginning at a point on the South boundary of the W. H. Tompkins property, as described in deed recorded under Auditor's File No. F 64339, 1385 feet East of the West boundary of Section 35, Township 5 North, Range 3 East of the Willamette Meridian; thence North 11° West 676 feet to a point on the North boundary of said Section 35, 1264 feet East of the Northwest corner of the Section; Length of right of way 676 feet.

TRACT 99:

A strip of land 100 feet wide extending 50 feet on each side of the following described center line as now located and surveyed to-wit:

Beginning at Engineers Station 51 plus 40 a point on the South side of Section 26, Township 5 North, Range 3 East of the Willamette Meridian, 1264 feet East of the Southwest corner of said Section; thence North 7°45' West 254.4 feet; thence around a 10° curve to the left for 613 feet; thence North 69°15' West 522.3 feet; thence around a 10° curve to the right for 358.3 feet; thence North 33°25' West 42 feet to Engineers Station 69 plus 12 being a point on the West side of said Section 26, 1147.4 feet North of the Southwest corner thereof.

ALSO, Beginning at Engineer's Station 71 plus 59 being a point on the South side of the Northeast quarter of the Southeast quarter of Section 27, Township 5 North, Range 3 East of the Willamette Meridian 143 feet West of the Southeast corner of said Northeast quarter of the Southeast quarter of said Section; thence around a 5° curve to the left for 384 feet; thence North 56° West 737 feet; thence around a 5° curve to the left for 310 feet; thence North 71°30' West 13 feet to Engineer's Station 86 plus 23 being a point on the West side of the Northeast quarter of the Southeast quarter of said Section 27, 446 feet South of the Northwest corner thereof.

PROVIDED, however, that between Engineer's Station 73 and Engineer's Station 79 being points on the line described in the paragraph immediately preceding 141 feet and 741 feet respectively Northwestwardly along said line from the point of beginning the width of the right of way shall be 200 feet extending 110 feet on the Southwest side of said center line and 90 feet on the Northeast side of said center line; total length of right of way 3236 feet.

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TRACT 100:

That part of Section 27, Township 5 North, Range 3 East of the Willamette Meridian, described as follows:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed; except that part which is in the right of way of the County Road. Beginning at Engineers Station 69 plus 12 a point on the East boundary of Section 27, Township 5 North, Range 3 East of the Willamette Meridian, 1147.7 feet North of the Southeast corner of the Section; thence North $33^{\circ}24'$ West 180.0 feet; thence around a 5° curve to the left for 30 feet, the roadway then extends across the Pratt property in the Northeast quarter of the Southeast quarter of Section 27, to Engineer's Station 86 plus 23 a point 447 feet South of the Northeast corner of the Northwest quarter of the Southeast quarter of Section 27; thence North $71^{\circ}30'$ West 343 feet; thence around a 10° curve to left for 198.5 feet; thence South $88^{\circ}39'$ West 158.4 feet; thence around a 16° curve to the right for 433.3 feet; thence North $22^{\circ}01'$ West 11.1 feet; thence around a 10° curve to right for 365.2 feet; thence North $14^{\circ}30'$ East 125.8 feet; thence around 10° curve to left for 420.1 feet; thence North $27^{\circ}30'$ West for 400.6 feet to Engineers Station 110 plus 79 a point 1460 feet South of the North quarter corner of Section 27; Length of right of way 2666 feet; EXCEPT any portion within the Northeast quarter of the Southeast quarter of said Section 27, (said excepted portion being included in the property described herein as Tract 7).

TRACT 101:

That part of Section 27, Township 5 North, Range 3 East of the Willamette Meridian, described as follows:

EXCEPT as hereinafter provided, a strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed. Beginning at Engineers Station 110 plus 79 a point on the East boundary of the Northwest quarter of Section 27, said point being 1460 feet South of the North quarter corner of Section 27; thence North $27^{\circ}30'$ West 200.0 feet; thence around a 10° curve to left for 296.0 feet to Station 115 plus 75 a point on an intermittent creek which is the West boundary of the Schubert property, said point being 1073 feet South of the North boundary of Section 27; PROVIDED, however that from Engineers Station 110 plus 79 to Engineers Station 114 the strip of land shall extend only 16 feet on the Southwest side of the center line; also where the distance from said center line to the County road right of way is less than 50 feet the strip of land shall extend to the right of way of said County road; Length of right of way 496.0 feet.

TRACT 102:

That part of Section 27, Township 5 North, Range 3 East of the Willamette Meridian, described as follows:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed; except where that is not available as much as 50 feet between the described center line and the boundary of the County Road.

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Beginning at Engineers Station 115 plus 75 a point on an intermittent creek (the Southeast boundary of the Hanley property) said point being 1073 feet South and 290 feet West of the North quarter corner of Section 27; thence around a 10° curve to left for 124.6 feet; thence North 69°34' West 395 feet; thence around a 5° curve to right for 410 feet; thence North 49°04' West 133.4 feet; thence around an 8° curve to left for 197.7 feet; thence North 64°53' West 145.2 feet; thence around a 16° curve to right for 391.3 feet; thence North 2°17' West 121.8 feet to Engineer's Station 134 plus 94 a point on the North boundary of Section 27, 892 feet East of the Northwest corner of Section 27. Length of right of way 1919 feet.

TRACT 103:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed; Excepting that part which is in the right of way of the County Road; Beginning at Engineers Station 134 plus 94 a point on the South boundary of Section 22, Township 5 North, Range 3 East of the Willamette Meridian, 892 feet East of the Southwest corner of Section 22; thence North 2°17' West 115.7 feet; thence around a 10° curve to right for 362.6 feet; thence North 33°59' East 240.7 feet; thence around a 10° curve to left for 341.7 feet; thence North 0°11' West 212.5 feet; thence around a 10° curve to left for 226.7 feet; thence North 22°52' West 690.3 feet; thence around a 12° curve to right for 534.5 feet; thence North 41°17' East 107.8 feet to Engineers Station 163 plus 26.5 a point 1067.7 feet East of the West quarter corner of Section 22.

TRACT 104:

A strip of land 150 feet in width extending 75 feet on each side of the following described center line as now located and surveyed, except that portion of the strip which lies in the Northeast quarter of the Northwest quarter of the Northeast quarter of Section 22, Township 5 North, Range 3 East of the Willamette Meridian; Beginning at Engineer's Station 163 plus 26.5 a point on the South boundary of the Northwest quarter of Section 22, Township 5 North, Range 3 East of the Willamette Meridian, said point being 1067.7 feet East of the West quarter corner of the Section; thence North 41°17' East 361.3 feet; thence around a 4° curve to left 266.7 feet; thence North 30°37' East 429.9 feet; thence around a 4° curve to left for 305 feet; thence North 18°25' East 217.7 feet; thence around a 5° curve to right 332.6 feet; thence North 45°10' East 639.6 feet; thence around a 5° curve to right for 257 feet; thence North 57°53' East 515.9 feet; thence around a 5° curve to left for 310 feet to Engineer's Station 163 plus 26.5 a point on the North boundary of Section 22, 1067.7 feet East of the Northwest corner of Section 22; thence continuing on said 5° curve to the East for 150 feet; thence North 37°22' East 311.3 feet; thence around a 10° curve to right 276 feet; thence North 35°10' East 226.6 feet; thence around a 5° curve to left 122.7 feet; thence North 6°0' East 121.3 feet; thence around a 4° curve to right 121.4 feet; thence North 71°53' East 257.7 feet to Engineer's Station 163 plus 26.5 a point on the East boundary of Section 22, Township 5 North, Range 3 East of the Willamette Meridian, said point being 1067.7 feet East of the Southwest corner of Section 22. EXCEPT County Roads, if any.

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TRACT 105:

Beginning at the Northwest corner of the Northeast quarter of the Northwest quarter of the Northeast quarter of Section 22, Township 5 North, Range 3 East of the Willamette Meridian; thence South 150 feet; thence North 45° East 212 feet to the North boundary of said Section 22; thence West 150 feet to the point of beginning.

TRACT 106:

That part of the North half of the Southwest quarter of Section 14, Township 5 North, Range 3 East of the Willamette Meridian, lying within the following described tract to-wit:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed beginning at Engineer's Station 221 plus 92 on the West boundary of Section 14, said point being 1401 feet South of the West quarter corner of Section 14; thence around a 4° curve to the left for 236.1 feet; thence North 63°18' East 448.2 feet; thence around a 4° curve to the left for 180.0 feet; thence North 56°06' East for 266.0 feet; thence around a 1° curve to the right for 330.8 feet; thence North 59°25' East for 993.0 feet; thence around a 5° curve to the right for 420.6 feet; thence North 80°27' East for 118.3 feet to Station 251 plus 85 a point on the East boundary of the Southwest quarter of Section 14, said point being 29.5 feet South of the center of Section 14.

TRACT 107:

That portion of Section 14, Township 5 North, Range 3 East of the Willamette Meridian, described as follows:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed. Beginning at Engineer's Station 251 plus 85 a point 29.5 feet South of the center of said Section 14; thence North 80°27' East 279 feet; thence around a 10° curve to left for 351.3 feet; thence North 45°15' East 271.3 feet; thence around a 10° curve to right for 375.5 feet; thence North 82°52' East 185.2 feet; thence around a 5° curve to left for 316.5 feet; thence North 67°02' East 1157.7 feet to Station 281 plus 22.0 a point on the East boundary of Section 14, said point being 1554 feet South of the Northeast corner of Section 14.

TRACT 108:

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Beginning at the Northwest corner of the South half of the Southwest quarter of Section 14, Township 5 North, Range 3 East of the Willamette Meridian; thence Southerly along the West boundary of Section 14 for 220 feet; thence North 65° East 339 feet; thence Westerly along the North boundary of the South half of the Southwest quarter of Section 14 for 492 feet to the point of beginning.

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TRACT 109:

That portion of Section 13, Township 5 North, Range 3 East of the Willamette Meridian, described as follows:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed; Beginning at Engineers Station 281 plus 22 a point on the West boundary of Section 13, said point being 1554 feet South of the Northwest corner of Section 13; thence North 67°2' East 160.5 feet; thence around a 3° curve to right for 293.3 feet; thence North 75°50' East for 443.1 feet; thence around a 2° curve to right for 460.8 feet to Engineers Station 294 plus 79.7 a point on the East boundary of the West half of the Northwest quarter of Section 13, said point being 1240 feet South of the North boundary of the section; length of right of way 1357.7 feet.

TRACT 110:

That portion of the East half of the Northwest quarter of Section 13, Township 5 North, Range 3 East of the Willamette Meridian, lying within the following described tract, to-wit:

A strip of land 100 feet in width extending 50 feet on each side of the following described center line as now located and surveyed; Beginning at Engineer's Station 294 plus 79.7 a point on the West boundary of the East half of the Northwest quarter of said Section 13, located 1240 feet South of the North boundary of said Section 13; thence North 85°19' East for 419.6 feet; thence around a 6° curve to the left for 341.1 feet; thence North 64°51' East for 586.6 feet to Engineer's Station 308 plus 27 a point on the East boundary of the Northwest quarter of said Section 13 located 903 feet South of the North quarter corner of this same Section 13.

TRACT 111:

A strip of land 50 feet in width extending 30 feet on each side of the following described center line as now located and surveyed:

Beginning at Engineer's Station 308 plus 37.5 a point on the West boundary of the Northwest quarter of Section 13, Township 5 North, Range 3 East of the Willamette Meridian, said point being 903 feet South of the North quarter corner of Section 13; thence North 64°51' East for 586.6 feet; thence around a 6° curve to the left for 341.1 feet; thence North 85°19' East for 419.6 feet to Engineer's Station 294 plus 79.7 a point on the East boundary of the Northwest quarter of Section 13, said point being 1240 feet South of the North boundary of Section 13; length of right of way 1247.5 feet.

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TRACT 112:

That portion of the Southeast quarter of the Northwest quarter of Section 13, Township 5 North, Range 3 East of the Willamette Meridian, included within the limits of a strip of land 100 feet in width, having

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50 feet of such width on each side of the following described center line:

Beginning at a point on the North line of said Section 13, which is 102.4 feet East of the Northwest corner of said Northeast quarter of the Northeast quarter, and running thence South 55° West 125.0 feet to a point on the West line of said subdivision which is 71.7 feet South of the Northwest corner of said Northeast quarter of the Northeast quarter, and having an area of 0.29 acre, according to the plat thereof on file in the office of the Commissioner of Public Lands at Olympia, Washington, as set forth in State of Washington Certificate of Right of Way to the Grantor, No. 386, dated May 22, 1959, subject to the terms and conditions of said Certificate.

TRACT 113:

That part of the South half of the North half of the Northwest quarter of Section 35, Township 5 North, Range 3 East of the Willamette Meridian, lying West of the West boundary of the County road and within the following described tract to-wit:

A strip of land 100 feet in width extending 50 feet on each side of the following described railroad centerline:
Beginning at a point on the East boundary of the County road 1,534 feet East of the West boundary of said Section 35; thence North 11° West to a point on the North boundary of the South half of the North half of the Northwest quarter of the said Section 35, 1,385 feet East of the West boundary of said Section 35.

Except County roads.

TRACT 114:

A parcel of land located in the Southeast one-quarter of the Southeast one-quarter of Section 12, Township 5 North, Range 3 East of the Willamette Meridian, Clark County, Washington, described as follows;

Beginning at the East one-sixteenth corner on the South section line of Section 12, Township 5 North, Range 3 East; thence S 89°45'22" East, a distance of 93.35 feet; thence North 50°20'55" East, a distance of 235.05 feet; thence North 35°17'15" East, a distance of 750.94 feet; thence North 5°37'34" West, a distance of 32.02 feet; thence South 55°12'20" West a distance of 30.01 feet; thence North 67°46'12" West, a distance of 40.35 feet; thence North 81°41'06" West a distance of 42.53 feet; thence North 74°30'59" West, a distance of 60.88 feet; thence North 52°51'57" West, a distance of 100.40 feet; thence North 51°13'52" West, a distance of 55.48 feet; thence North 42°54'44" West, a distance of 58.42 feet; thence North 39°30'45" West, a distance of 132.32 feet; thence North 39°36'43" West, a distance of 157.49 feet; thence North 37°28'17" West, a distance of 117.76 feet; thence North 35°35'43" West, a distance of 252.45 feet; thence South 54°24'17" West, a distance of 30.00 feet; thence South 35°35'13" East, a distance of 152.45 feet; thence South 37°28'17" East, a distance of 117.76 feet; thence South 30°34'59" East, a distance of 169.72 feet; thence South 17°59'59" West, a distance of 643.18 feet; thence South 50°20'55" West a distance of 288.46 feet; thence South 0°17'36" East, a distance of 26.67 feet to the point of beginning.

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EXCEPT that real property described in HIGHWAY EASEMENT DOCUMENT NO'S 53072, 58262 and 67396 which are attached hereto and made a part hereof;

ALSO EXCEPT that real property contained within railroad grade crossings commonly known as:

N. E. 40th Avenue
N. E. 95th Street
N. E. 72nd Avenue
N. E. 87th Avenue
N. E. 119th Street
N. E. 149th Street
N. E. 137th Avenue
N. E. 159th Street
N. E. 142nd Avenue
N. E. 181st Street
N. E. 199th Street
N. E. 249th Street
N. E. 259th Street
N. E. 279th Street
N. E. Hantwick Road
County Road 16 (Near North line of Yacolt City Limits)
County Road 16 (In N.W. 1/4, Sec. 35, T5N, R3E, WM)
County Road 16 (In S.W. 1/4, Sec. 22, T5N, R3E, WM)

ALSO EXCEPT that portion of TRACT 91 herein described which lies North of that property conveyed to Clark County, Washington by instrument recorded under Auditor's File No. 8411010013.

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NORTHERN PACIFIC RAILWAY COMPANY, a corporation under the laws of Wisconsin, in consideration of one dollar and the agreements herein contained grants unto the County of Clark, a municipal corporation

of the state of Washington, the right, save as herein limited, to use for the purpose of a public street or road, but for no other purposes whatsoever, portions of the right of way of the Railway Company described as follows, to-wit:

BB
BB
BB
BB

A strip of land 20 feet in width along the easterly side of the one hundred foot railroad right of way of the Northern Pacific Railway Company in the NE 1/4 of section 13 in township 3 north of range 2 east of the Willamette Meridian, being that portion of said government subdivision lying between lines parallel with and distant respectively 30 feet and 50 feet easterly, measured at right angles, from the center line of the main track of said Railway Company for its Yacolt Branch as now constructed across said premises.

Said strip of land has for greater certainty been colored in solid red on the print attached hereto and made a part hereof, dated November 28, 1934.

The privilege hereby granted is effective from the 16th day of January 1935, until terminated as provided in this agreement or otherwise.

This grant is made upon the following terms:

1. The street or road shall be constructed and maintained in a good and workmanlike manner and made and kept as safe for public travel as possible. The expense of construction and maintenance thereof shall be borne by the grantee; and the Railway Company shall not be liable for or assessed for any of the expense of construction or maintenance.
2. Should the right of way, the right to use which is hereby granted, or any portion thereof, be required for the construction of tracks, buildings, including public and private warehouses, or for other railroad purposes, the grantee shall change the location of said street or road and vacate the said right of way, or such portion thereof as the Railway Company shall request; and the entire expense of such change shall be borne by the grantee.
3. The Railway Company may upon sixty (60) days' notice in writing revoke this permit, and the grantee hereby agrees in that event to peacefully and promptly surrender possession of the premises unto the Railway Company.
4. The grantee shall not grant to any person or company permission to construct or maintain a pole line on any portion of the above described right of way and the Railway Company reserves to itself the right to grant such permits provided the pole lines are so located as not to interfere with the use of the street or road for public travel.

5. The Grantee shall place and maintain under the County Road at proper elevations and locations, culverts having waterway openings equal to those of the railway company's reinforced concrete pipe culverts. The grantee shall indemnify and save harmless the railway company from all claims for fire or damage due to the construction of said road on the railway company's right of way.

6. Grantee agrees to replace right of way fences, damaged or destroyed, and to erect fence on easement line, satisfactory to Railway Company.

IN WITNESS WHEREOF, the parties hereto have executed these presents in duplicate originals this 16th day of January 1935.

Approved:

Chas. L. Smith
County Engineer.

NORTHERN PACIFIC RAILWAY COMPANY,

By *J. K. Hillman*
Supt. of the Company

COUNTY OF CLARK, 400

Fredrich H. L. Johnson
Chairman County Commissioners

A. H. Hill
Commissioner

Grant Johnson
Commissioner

ATTEST:

NORTHERN PACIFIC RAILWAY COMPANY, a corporation under the laws of Wisconsin, in consideration of one dollar and the agreements herein contained grants unto the COUNTY OF CLARK, a municipal corporation,

of the state of Washington, the right, save as herein limited, to use for the purpose of a public street or road, but for no other purposes whatsoever, portions of the right of way of the Railway Company described as follows, to-wit:

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A strip of land 20 feet in width along the westerly side of its station grounds at BATTLE GROUND within the NE¹/₄ of NW¹/₄ of Section 2 in Township 3 North of Range 2 east of the Willamette Meridian in Clark County, Washington, being that portion of said government subdivision lying between lines parallel with and distant respectively 50 feet and 70 feet westerly, measured at right angles, from the center line of main track of said railway company for its Yaacolt branch and between the north line of said section 2 and the produced south line of "C" Street, as shown upon the recorded plat of Richter's Addition in said government subdivision; said strip of land being shown colored in solid RED on the plat attached hereto and made a part hereof identified as Exhibit "A".

The privilege hereby granted is effective from the first day of July 1940 193 until terminated as provided in this agreement or otherwise.

- This grant is made upon the following terms:
1. The street or road shall be constructed and maintained in a good and workmanlike manner and made and kept as safe for public travel as possible. The expense of construction and maintenance thereof shall be borne by the grantee; and the Railway Company shall not be liable for or assessed for any of the expense of construction or maintenance.
 2. Should the right of way, the right to use which is hereby granted, or any portion thereof, be required for the construction of tracks, buildings, including public and private warehouses, or for other railroad purposes, the grantee shall change the location of said street or road and vacate the said right of way, or such portion thereof as the Railway Company shall request; and the entire expense of such change shall be borne by the grantee.
 3. The Railway Company may upon ninety (90) days' notice in writing revoke this permit, and the grantee hereby agrees in that event to peacefully and promptly surrender possession of the premises unto the Railway Company.
 4. The grantee shall not grant to any person or company permission to construct or maintain a pole line on any portion of the above described right of way and the Railway Company reserves to itself the right to grant such permits provided the pole lines are so located as not to interfere with the use of the street or road for public travel.
 5. The rights hereby granted are subject, however, to existing rights of the Railway Company and to permits and leases heretofore granted by said Railway Company along or across the above described premises.

IN WITNESS WHEREOF, the parties herein have executed these presents in duplicate originals this first day of July 1940 193

NORTHERN PACIFIC RAILWAY COMPANY,
 By W. C. S. [Signature]
 Chairman, County Commissioners
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 By Charles [Signature]
 Chairman, County Commissioners
 By [Signature]
 Commissioner
 By [Signature]
 Commissioner

ATTENT:
[Signature]
 APPROVED:
[Signature]
 County Engineer

HIGHWAY EASEMENT

No. 57398

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NORTHERN PACIFIC RAILWAY COMPANY, a corporation under the laws of Wisconsin, in consideration of one dollar and the agreements herein contained grants unto CLARK COUNTY, a municipal corporation

of the state of Washington the right, save as herein limited, to use for the purpose of a public street or road, but for no other purposes whatsoever, portions of the right of way of the Railway Company described as follows, to-wit:

A strip of land, 33 feet in width, extending on and along the railway Company's 100 foot right of way for its Yaacolt Branch in section 16 in township 4 north of range 3 east of the Willamette Meridian in Clark County, Washington, near HEISOW station, the center line of said road being described as follows:

MP 21.0

Beginning at a point in an existing road crossing, distant 33.5 feet northerly, measured at right angles, from the center line of main track as now constructed and 315 feet westerly, measured along said center line from Mile Post 22 (which mile post is located 158 feet easterly, measured along said center line, from the east line of said section); running thence westerly along a straight line parallel with said center line and distant 33.5 feet northerly therefrom a distance of 1109 feet to a point; thence along a curve to the right to a point in the northerly boundary line of said right of way.

[Handwritten notes and signatures on the left margin]

This grant is made upon the following terms:

1. The street or road shall be constructed and maintained in a good and workmanlike manner and made and kept as safe for public travel as possible. The expense of construction and maintenance thereof shall be borne by the grantee; and the Railway Company shall not be liable for or assessed for any of the expense of construction or maintenance.
2. Should the right of way, the right to use which is hereby granted, or any portion thereof, be required for the construction of tracks, buildings including public or private warehouses, or for other railroad purposes, the Railway Company may upon sixty (60) days' notice in writing revoke this permit, and the grantee hereby agrees in that event to peaceably and promptly surrender possession of the premises unto the Railway Company on the expiration date fixed in the notice, and if requested by the Railway Company will restore the premises to their original state.
3. The grantee shall not grant to any person or company permission to construct or maintain a pole line on any portion of the above described right of way and the Railway Company reserves to itself the right to grant such permits provided the pole lines are so located as not to interfere with the use of the street or road for public travel.

IN WITNESS WHEREOF, the parties hereto have executed these presents in duplicate originals this 28th day of July 1917

NORTHERN PACIFIC RAILWAY COMPANY,

By *[Signature]*
Industrial Agent 402

CLARK COUNTY

By *[Signature]*
Chairman, Board of County Commissioners

By *[Signature]*
Commissioner

By *[Signature]*
Commissioner

ATTEST:

[Signature]

EXHIBIT C

Mile Post	General Desc.	Priority Deficiencies
Bridge MP 5/16	I-5	None
Bridge MP 1.5	Highway 99	<p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • Paint loss, corrosion, and soil buildup at the bearings of both bridge abutments
Bridge MP 6	Curtain Creek	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • None <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • Pile 5 at Bent 2 below the frame bent has 2" remaining shell thickness with 7-1/2" internal decay. • Pile 1 at Bent 4 below the frame bent has 1/2" remaining shell thickness with 13" internal decay. • Pile 3 at Bent 4 below the frame bent has 2" remaining shell thickness with 11" internal decay. • Pile 5 at Bent 5 below the frame bent has 1" remaining shell thickness with 10" internal decay. • Pile 2 at Bent 6 has 2" remaining shell thickness with 8" internal decay. • Pile 4 at Bent 7 has 2" remaining shell thickness with 8" internal decay.
Bridge MP 12	Salmon Creek	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • None. <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • The shim cap at Bent 3 exhibits crushing under Stringers 1 thru 3 and split under Stringers 1 thru 6. • The cap at Bent 3 has shifted horizontally with related vertical misalignments at Piles 1, 2, 4 and 5. These piles have rotated out of plumb toward the embankment (down-station) at different rates, causing unequal

		<p>bearing between the cap and piles and skewing of the cap.</p> <ul style="list-style-type: none"> • The shim cap at Bent 8 exhibits a 1-1/2" W x 12" D x 24" L void in the top of the shim cap, extending into the cap under Stringers 1 – 3. • The shim cap at Bent 10 exhibits 5/8" W x 4' L splitting in the west end of the cap. There is 1" minimum remaining section on one side of the top shim cap under Stringers 1, 2, and 3 with moderate crushing of the cap under Stringers 2, 3 and 6. • Many stringers have open drilled holes from previous repairs and exhibit inadequate plugging, which increases the likelihood of moisture infiltration and increasing rates of decay. • Pile 3 at Bent 3 has a 2" minimum remaining shell thickness in the upper 2' and a gap of up to 1/2" between top of pile and cap. • Pile 1 at Bent 5 has damaged shims with up to 1" gap between pile and cap. • Pile 5 at Bent 6 has a 2" minimum remaining shell thickness in the upper 8'. • Pile 4 at Bent 6 exhibits up to 1/2" W checking in upper 2/3 of pile. • Pile 4 at Bent 7 has up to 5/8" W x 5" D splitting with bulging of pile at the upper sway brace connection (see Photos 24). • Pile 1 at Bent 8 has a 2" minimum remaining shell thickness in the upper 8' and has a 2.5" minimum remaining shell thickness in the lower third. • Pile 1 at Bent 8 has two 4" diameter holes at the top. • Pile 2 at Bent 8 exhibits up to 5/8" W x 3" D x 10' L checking in the upper third and up to 1" W x 3" D x 5' L checking in the middle third. • Pile 4 at Bent 10 has a 1" minimum remaining shell thickness in the lower 2'.
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		<ul style="list-style-type: none"> • Pile 1 at Bent 11 has a 2" minimum remaining shell thickness in the lower 6'. • Pile 2 at Bent 12 has a 2" minimum remaining shell thickness for the full exposed length. • Three of the mud sills supporting Pile 2 at Bent 11 have a 1" minimum remaining wall thickness. • The backwall lagging at Bent 12 is decayed and bulging. Both wingwalls are decayed and have rotated outward, consequently allowing ballast to slough from the track structure.
Bridge MP 18	"Shallow Unknown" Creek	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • Bent 2 - the right rail is unsupported over nine ties, which includes a track splice. The gap between the rail and tie plate is approximately 1.25". • Between Bents 1 and 2, both rails exhibit an approximately 3" lateral drift to the left. • Both rails are unsupported over two ties (including a track splice) at the eighth tie north of Bent 2, with a missing tie plate on the left (west) side. • Bent 6 - the right rail is unsupported over five ties, which includes a track splice. The gap between the rail and tie plate is approximately 1". • Bent 8 - the right rail is unsupported over ten ties, which includes a track splice. The gap between the rail and tie plate is approximately 1". • The rail on the near (south) approach is unsupported for a length of approximately 15' with several ties missing. • The rail on the far (north) approach is unsupported for a length of approximately 10'. <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • There is missing stringer packing and line bolt hardware at scattered locations throughout the structure.

		<ul style="list-style-type: none"> • There is stringer line bolt hardware impacting the cap at Bent 2 from relative movement of the stringer and cap. There is loose and/or missing hardware in the caps at Bents 1, 3, 4, 5, 6 and 8. • Piles 2, 3 and 4 at Bent 2 are inclined, resulting in up to 2.5" of displacement away from the cap at the pile tops. • Pile 5 at Bent 1 has a 6"D x 5"W x 5"H decay void in top and a ½" to 1" remaining shell thickness on the front face at ground level. • Pile 4 at Bent 5 has 1" remaining shell thickness in the lower 6' of its exposed length. • Pile 1 at Bent 6 has 1.5" remaining shell thickness in the lower 5' of its exposed length. • Pile 2 at Bent 6 has 1.5" remaining shell thickness in the upper 2' of its exposed length. • Gaps were identified between the tops of the piles and bottoms of the caps, and between stringers and the top of caps, at the following locations: <ul style="list-style-type: none"> ○ Bent 1: Up to 1/2" gaps at all piles. ○ Bent 2: 3/4" gap at Pile 1, far side only. 3/8" gap at Piles 2, 3 and 4, far side only. 2" gap at Pile 5, far side only. ○ Bent 2: 5/8" gap between stringers and cap. ○ Bent 3: 3/8" gap at Piles 3 and 4. ○ Bent 4: 1/4" gap at Piles 2 and 4. ○ Bent 5: 1/4" gap at Pile 1 and 1/8" gap at Pile 2. ○ Bent 7: 1/4" gap at Pile 4. 1/8" gap at Piles 2 and 3. ○ Bent 8: Up to 5/8" gap at Piles 1-4. • Deck ties exhibit varying levels of minor to severe deterioration in the form of tie plate cutting, splits, weathering,
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		<p>decay and several undersized ties plates missing one or more spikes.</p> <ul style="list-style-type: none"> • The backwall at Bent 1 is displaced and resting against the stringer ends. The vertical spacing posts supporting the lagging have a 1/2" thick remaining shell thickness and exhibit partial crushing failures. • The backwall at Bent 9 is bulging, causing approach fill settlement and impacting the ends of the stringers. The lagging exhibits severe splitting and weathering; and the support posts are crushed and exhibit severe levels of decay. The backwall is undermined and losing fill behind the connections to the northeast and northwest wingwalls. There are up to 3/4" gaps between piles and backwall due to pile rotation from approach settlement at Bent 9.
Bridge MP 20	"Local Drainage Feature"	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • Longitudinal and transverse bracing has been cut and sections between bents and posts removed. • Bent 3 Posts 1, 2, and 4 have fallen free from the bent and are on the ground adjacent to the structure. Post 5 shifted when sounded entire bent is unstable. • Bent 4 Post 4 has fallen free from the bent. • Stringers 1 and 6 in Span 1 have a 1/2"-1" remaining shell thickness. • Stringer 8 in Span 3 has 2" remaining shell thickness. • Stringer 7 in Span 4 has 1" remaining shell thickness. • Stringer 2 in Span 5 has a 1" remaining shell thickness. • Stringer 1 in Span 6 has a 1" remaining shell thickness. • Bent 2 cap is failing and exhibits splitting and an 18" long crack due to the 1" remaining shell thickness. • Bent 3 cap has a 1" remaining shell thickness and exhibits the initial stages of failure.

		<ul style="list-style-type: none"> • Bent 2 mudsill has a 1” remaining shell thickness. • Bent 3 mudsill is not bearing on the sill block for a length of approximately 4 feet and is crushing between Posts 3 and 5. • Bent 6 mudsill has a 3/4” remaining shell thickness extending from Post 4 to the south end. • Severe decay to all mud blocks. <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • There is up to a 1/2” gap between Posts 3, 4 and 5 and the Bent 4 cap. • There is up to a 1/4” gap between Posts 2 and 4 and the Bent 6 cap. • Stringer 7 in Span 5 has a 4” remaining shell thickness. • Stringer 6 in Span 6 has a 3” remaining shell thickness. • The stringers are not bearing on the Bent 6 cap. There are up to 1/2” gaps between the cap and Stringers 1 – 4, and up to 3/4” between the cap and Stringers 5 – 8. The cap also exhibits splitting at each end ranging in length from 18” to 24”. • Ties in Span 5 are not bearing on helper stringers. • The backwall posts are severely decayed at both bents. • The Bent 7 backwall is rotated approximately 5 degrees into the approach fill. • Back walls are undermined 12”-15”. • Vertical and horizontal track alignment is compromised due to structure settlement, decay of primary load-carrying members, and lack of substructure bracing.
Bridge MP 23	East Fork Lewis River	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • None. <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • There is severe deterioration in the shim beneath Stringers 1 through 3 at Bent 1.

		<p>Continued deterioration will compromise line and grade.</p> <ul style="list-style-type: none"> • There is 1" shell remaining in the mud block under Pile 3 at Bent 5. • There is ½" shell remaining for lower 6' in Pile 2 at Bent 9. • There is 1" shell remaining in the sill under Pile 4 at Bent 13. • There is 1" shell remaining in Pile 5 at Bent 14. • There is 1" shell remaining in the sill between Pile 3 and Pile 4 at Bent 18. • There is 1" shell remaining in the lower 6' in Pile 2 at Bent 20. There is 1" shell remaining at the base of Pile 4 at Bent 20. • There is less than ¾" shell remaining on the mud block under Pile 5 at Bent 21. • There is 1" shell remaining in the mud block under Pile 1. • There are 46 ties with tie plate cutting, splitting, and decay that require replacement.
Bridge MP 25	East Fork Lewis River	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • None. <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • Missing spikes in tie plates in Span 1. • 1" remaining shell in Stringer 1 and 3" • remaining shell in Stringer 6 in Spans 3 and 4 over Bent 4. • Recently constructed beaver dam on upstream side of bridge contributing to 15' diameter scour hole under Span 4. • Minor settlement at north and south approaches with unsupported rail over 1 tie at the south approach.
Culvert MP 27	Cedar Creek	<p>Critical Findings (Priority 1 and 2)</p> <ul style="list-style-type: none"> • None. <p>Significant Findings (Priority 3)</p> <ul style="list-style-type: none"> • Scour along the length of the south footing up to 30" deep with underside of footing exposed and undermined up to 6".