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EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that BURLINGTON NORTHERN RAILROAD COMPANY (formerly named Burlington Northern Inc.), a Delaware corporation, whose address for purposes of this instrument is 3300 Continental Plaza, 777 Main Street, Fort Worth, TX 76102-5384, Grantor, for ONE THOUSAND FIVE-HUNDRED Dollars (\$1,500.00) to it paid by STATE OF OREGON, acting by and through its Department of Transportation, Grantee, and the promises of the Grantee hereinafter specified, does hereby remise, release and quitclaim unto the Grantee, subject to the terms and conditions hereinafter set forth, an EASEMENT for removal and reconstruction of existing Dalles-California Highway overhead bridge crossing of Lumber Spur at Klamath Falls, OR, hereinafter called overhead bridge, over, upon and across the following described premises, situated in Klamath County, State of Oregon, to-wit:

NEW All that portion of Burlington Northern Railroad Company's 76.5 foot wide Lumber Spur right of way situated in Government Lot 1, Section 18, Township 39 South, Range 9 East Willamette Meridian, Klamath County, Oregon and being more particularly shown outlined red on the attached Exhibit "A" and by this reference made a part thereof.

RESERVING, however, unto the Grantor, its successors and assigns, the right to construct, maintain, use, operate, relocate, reconstruct and renew such tracks and facilities as it may at any time, and from time to time, desire within the limits of the land hereinbefore described, including the right and privilege to use said land for any and all purposes, not inconsistent with the use thereof for overhead bridge purposes.

ALSO RESERVING, however, unto the Grantor, its successors and assigns, the right to construct, place, operate, maintain, alter, repair, replace, renew, improve and remove communication lines above, below and on the surface of the premises, including, without limitation, transmission by conduit, fiber optics, cable, wire or other means, of electricity, voice data, video, digitized information, or other materials or information, including the right of ingress and egress in any such manner as does not unreasonably interfere with Grantee's use of the premises for said overhead bridge, and further reserving unto Grantor, its successors and assigns, all right and privilege of ingress and egress to said premises as Grantor, its successors and assigns may require to investigate and remediate environmental contamination and hazards.

The foregoing easement is made subject to and upon the following express conditions:

1. To existing interests in the above-described premises to whomsoever belonging and of whatsoever nature and any and all extensions and renewals thereof, including but not limited to underground pipe line or lines, or any type of wire line or lines, if any.
2. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of said overhead bridge shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and

wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing.

3. The Grantee shall bear the cost of removal, relocation or reconstruction of any and all right of way fences, telephone or telegraph poles, or other facilities, the removal, relocation or reconstruction of which may be made necessary by reason of the use of said premises for said overhead bridge purposes

4. The Grantee shall, at its own cost and expense, make adjustment with industries or other lessees of Grantor for buildings or improvements that may have to be relocated, reconstructed or destroyed by reason of the construction and maintenance of said overhead bridge on said premises.

5. This instrument is granted according the the terms and conditions of that certain Construction and Maintenance Agreement between the Grantor and the Grantee dated March 2, 1992 and made subject to the terms and conditions contained therein.

6. The Grantee or its contractor(s) shall telephone Grantor's Communication Network Control Center at (800) 533-2891 (a 24 hour number) to determine if fiber optic cable is buried anywhere on the premises; and if so, the Grantee or its contractor(s) will contact the Telecommunications Company(ies) involved, and make arrangements with the Telecommunications Company(ies) for protection of the fiber optic cable prior to beginning any work on the premises.

7. If at any time the use of the premises for the purposes herein should be abandoned or discontinued by the Grantee, the said easement over the herein described premises shall thereupon cease and determine and the Grantee shall surrender or cause to be surrendered to the Grantor or its successors and assigns, the peaceable possession of said described premises, and title to the said premises shall remain in the Grantor, or its successors or assigns, free and clear of all rights and claims of the Grantee and of the public for use and occupancy of the said premises.

8. The Grantor does not warrant its title to said premises nor undertake to defend the Grantee in the peaceable possession, use or enjoyment thereof; and the grant herein made is subject to all outstanding rights or interest of others, including the tenants and licensees of the Grantor.

**TO HAVE AND TO HOLD THE SAME**, together with all the hereditaments and appurtenances thereunto belonging to Grantee for public use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

IN WITNESS WHEREOF, the said BURLINGTON NORTHERN RAILROAD COMPANY has caused this instrument to be signed by its authorized officers, and the corporate seal affixed on the 29<sup>th</sup> day of September, 1992.

**BURLINGTON NORTHERN  
RAILROAD COMPANY**

BY D. P. Schneider  
D. P. Schneider  
Director, Title Services  
& Field Support

ATTEST:

BY Victoria H. Vasquez  
Victoria H. Vasquez  
Assistant Secretary

STATE OF TEXAS

COUNTY OF TARRANT

)  
) ss.

On this 29<sup>th</sup> day of September, 1992, before me personally appeared D. P. Schneider and Victoria H. Vasquez, who, being duly sworn, each for himself and not one for the other, did say that the former is the Director, Title Services & Field Support and the latter is the Assistant Secretary of Burlington Northern Railroad Company, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me: Arline Nichols

Notary Public for State of Texas

My commission expires: December 20, 1992



BN 10179 - Klamath Falls, OR

25382

38

166.9 priv. Crossing is Silver  
Klamath River  
Right of Way Road 6600.  
of the right of way

LOT

110'  
36'  
60'

60'

100' Easement to County for Highway  
May 22, 1935. Memo No 238-35  
S. 8.22.12.13.14.15.16.17.18.19.20.21.22.23.24.25.26.27.28.29.30.31.32.33.34.35.36.37.38.39.40.41.42.43.44.45.46.47.48.49.50.51.52.53.54.55.56.57.58.59.60.61.62.63.64.65.66.67.68.69.70.71.72.73.74.75.76.77.78.79.80.81.82.83.84.85.86.87.88.89.90.91.92.93.94.95.96.97.98.99.100.

2.4 Sec. line

N

21084

Declar.  
Convey

O.H. HWY. BRIDGE - No. 4  
 I.D. Cont. No. 28124 Oct. 8, 1915  
 State to construct and maintain Bridge.  
 By grants State easement across this, the Br.  
 By grants right to construct add'l. tracks and tra.  
 facilities under Br.  
 State to provide necessary drainage.

## EXHIBIT "A"

BURLINGTON NORTHERN RAILROAD COMPANY

☐ INDICATES EASEMENT AREA

CONTAINING 11,500 SQ. FT. - -

CITY: KLAMATH FALLS COUNTY: KLAMATH STATE

SCALE: 1" = 100' DATE: 1-15-1992 AFD=

REGION SEATTLE DIVISION PACIFIC

M.P. Whiteline Yard Extension LINE SEGMENT: 640

GRANTEE: STATE OF OREGON

PURPOSE: OVERHEAD HIGHWAY BRIDGE

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Oregon Hwy Div. the 29th day  
 of Oct A.D., 1992 at 10:40 o'clock AM., and duly recorded in Vol. M92,  
 of Deeds on Page 25379.

FEE \$30.00

Evelyn Biehn County Clerk  
 By Quentin M. Mendenhall