

"Original"

155049

RECEIVED

ACCEPTANCE

SEP 28 1983

Office of
City Auditor

Portland, Oregon September 2 19 83

JEWEL LANSING

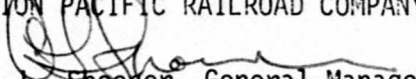
Auditor of the City of Portland
Room 202, City Hall
Portland, Oregon 97204

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 155049, passed by Council September 1, 1983, granting a revocable permit to the Oregon-Washington Railroad and Navigation Company, its successors, lessees, and assigns, to construct, equip, operate and maintain an industrial lead track in and along N. River Street between N. Essex and N. Harding Avenues,

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.


Very truly yours,

OREGON-WASHINGTON RAILROAD
AND NAVIGATION COMPANY and its Lessee
UNION PACIFIC RAILROAD COMPANY


A. L. Shoener, General Manager, NWD
Union Pacific Railroad Company
1515 SW Fifth Avenue, Suite 400
Portland, Oregon 97201

Address

Approved as to form: AS TO FORM


City Attorney

*When an acceptance is signed by an officer of a firm or corporation, his or her official title must be stated.

ORDINANCE NO. 155049

An Ordinance granting a revocable permit to the Oregon-Washington Railroad and Navigation Company, its successors, lessees, and assigns, to construct, equip, operate and maintain an industrial lead track in and along N River Street between N Essex and N Harding Avenues, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The Oregon-Washington Railroad & Navigation Company, its successors, lessees, and assigns, have through R.S. Orr, Project Manager, requested permission to construct, equip, operate and maintain an industrial lead track in and along N River Street.
2. The lead track is to serve Kaiser Cement Corporation.
3. The plan for the lead track, attached to this Ordinance as "Exhibit A," has been approved by the City Engineer.

NOW, THEREFORE, the Council directs:

- a. A revocable permit is granted to the Oregon-Washington Railroad and Navigation Company, its successors, lessees and assigns; grantee, to install, use, and maintain an industrial lead track as described above and located as shown on the plan marked "Exhibit A" attached to this Ordinance, which plan hereby is made a part of this Ordinance by reference, subject to the following conditions:
 - (1) The grantee shall use the track authorized by this permit for switching movements only, and shall not store any cars, locomotives or other equipment on said track, or otherwise interfere with access to properties located along N River Street.
 - (2) The grantee will, at its own cost and expense, during the exercise of the privilege hereby granted, pave, repave, repair or otherwise improve and maintain and adjust in like manner or as directed by the City Engineer any parts of any open and existing roadway and sidewalk area as well as catch basins and inlets, underground construction and any other construction within the street lines which, by reason of laying of the above mentioned track shall, in the opinion of the City Engineer, require repairs, adjustments or construction. The grantee shall pay to

the City any additional costs of construction, reconstruction, altering, repairing or maintaining any municipal utility now existing or which may hereafter be built, caused by the construction and maintenance of such lead track or appurtenances, the equitable amount of such cost to be determined by the City Engineer.

- (3) The grantee shall fill in to the established grade, plank, pave, repave, reconstruct or otherwise improve or repair and keep in good condition from time to time whenever and in the manner directed by the City of Portland those portions of the street between the rails of the above mentioned tracks and for a distance of two feet outside thereof.
- (4) The grantee shall allow any other company, including any municipal belt line or commercial railroad that may hereafter be authorized, operated, or maintained by the City of Portland, and including railroad companies operating engines, locomotives or cars by electrical current, steam diesel or gas power, to use in common with grantee, the tracks and switches herein authorized to be laid, upon obtaining the consent of the Council of the City of Portland, expressed by Ordinance or by the people by the initiative; each user paying a proper and equitable proportion of the cost of construction and repair of the tracks to be used jointly.
- (5) The permit granted herein shall not in any manner interfere or prevent the City of Portland from granting permits or franchises to other corporations or individuals for the construction of other tracks crossing the tracks which may be constructed under this Ordinance and for the maintenance and operation of said other tracks.
- (6) This permit is revocable at any time for cause and no expenditure of money, hereunder, or lapse of time, or other act or thing, shall operate as an estoppel against the City of Portland, or be held to give the grantees any vested or other right. Upon revocation of this permit, the City may give written notice to the grantee of such revocation, fixing a time which the Council finds reasonable for curing any failure or doing or performing the work or other condition required to be done under this permit, and in the event that said grantee fails to cure such defect, or to do so or perform such work, and in the event of abandonment or non-use, the City may by Ordinance revoke this permit, whereupon all the rights of the grantee shall immediately be divested without further action upon the part of the City, and the grantee shall, within 30 days remove the said lead track from within the street area as required by and to the satisfaction of the City Engineer.

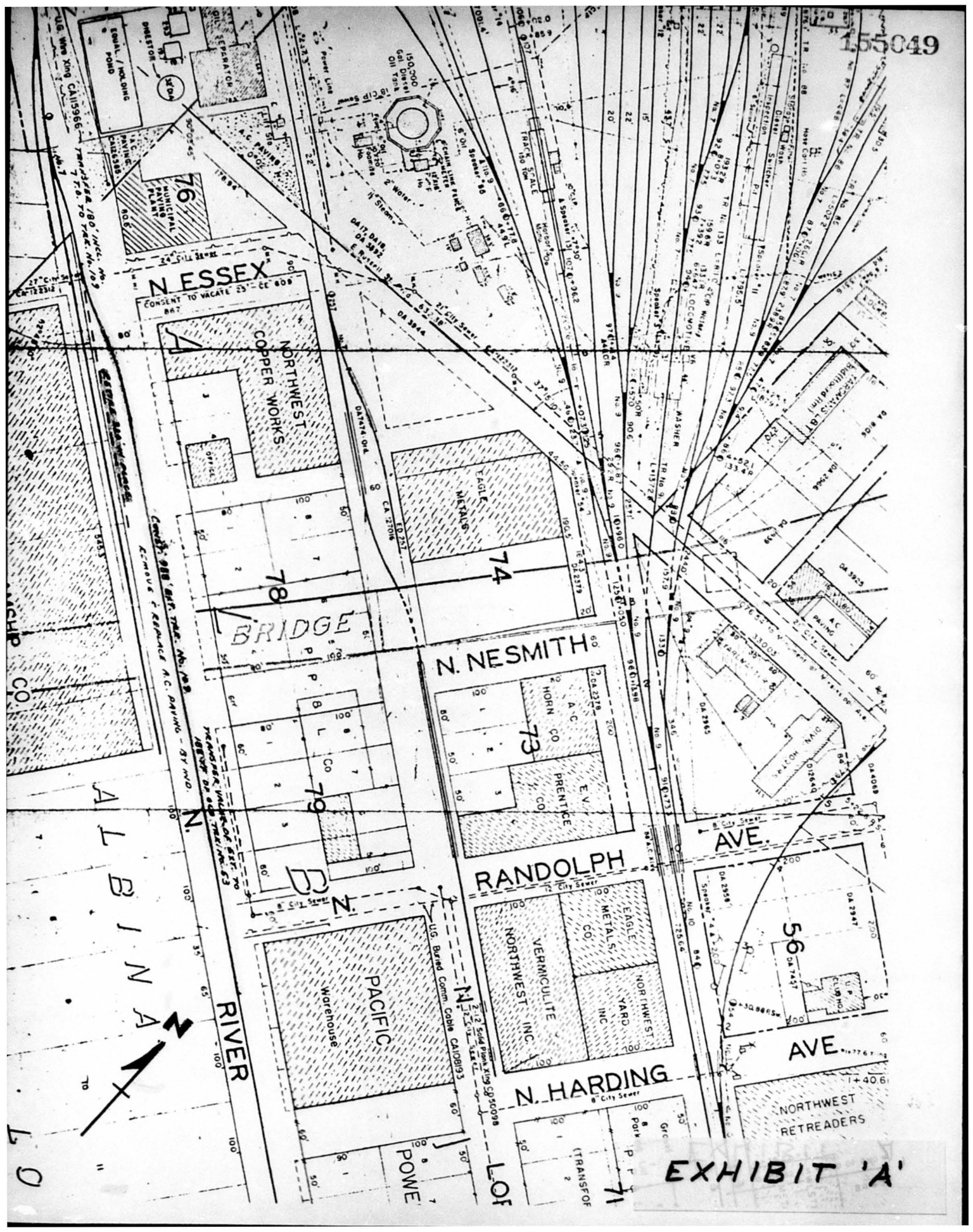


EXHIBIT 'A'

ORDINANCE No.

IVANCIE	
STRACHAN	
SCHWAB	
LINDBERG	
JORDAN	
FOURIE	
ADAR	
BERG	
ANAB	
OVN	
AS FOLLOWS	
COMMISSIONERS VOTED	

(7) The grantee shall make all street repairs between the rails and for a distance of two feet outside thereof as directed by the City Engineer within the time specified. In the event timely repairs are not made, the City shall make the necessary repairs and seek reimbursement from the grantee.

(8) The grantee, its successors and assigns, hereby agrees and covenants to indemnify and save harmless the City of Portland, its officers and employees, against all damages, costs and expenses whatsoever to which it or they may be subject in consequence of any act or neglect to said grantee, its successors or assigns, agents or servants, in any manner arising from the rights and privileges hereby permitted.

(9) This permit is for use of the street area only, and shall not exempt the grantee from taking out any license or obtaining any permit required by existing City Codes or Ordinances for any operation or maintenance performed under the permit hereby granted, nor shall this permit waive the provisions of any City Code, Ordinance, or the City Charter, except as herein stated.

Section 2. This Ordinance will not become effective until the grantee has filed with the City Auditor a document satisfactory to the City Attorney accepting the terms and conditions hereof.

Section 3. The Council declares that an emergency exists so that rail service may be provided to Kaiser Cement Corporation without interruption or delay; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

ORDINANCE No. 122010

S307

Passed by the Council, SEP 1 1983

Commissioner Mike Lindberg
David Vargas:mnc
August 23, 1983

JEWEL LANSING
Auditor of the City of Portland

By *Eana Curran* Deputy

2304

Calendar No.

ORDINANCE No. 155049

Title

An Ordinance granting a revocable permit to the Oregon-Washington Railroad and Navigation Company, its successors, lessees, and assigns, to construct, equip, operate and maintain an industrial lead track in and along N River Street between N Essex and N Harding Avenues, and declaring an emergency.

THURSDAY

AUG 25 1983

Filed

JEWEL LANSING Auditor of the CITY OF PORTLAND

By Dennis [Signature] Deputy

Table with 3 columns: Commissioner Name, Yeas, Nays. Rows include JORDAN, LINDBERG, SCHWAB, STRACHAN, IVANCIE.

Table with 2 columns: Commissioner Name, Four-Fifths Calendar. Rows include JORDAN, LINDBERG, SCHWAB, STRACHAN, IVANCIE.

INTRODUCED BY Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER: Affairs, Finance and Administration, Safety, Utilities, Works (with signature).

BUREAU APPROVAL: Street & Structural Engineering, Prepared By: David Vargas:mnc, Date: 8-23-83, Bureau Head: Ralph Tashima, Acting Chief.

CALENDAR: Consent [checked], Regular

NOTED BY: City Attorney, City Auditor, City Engineer Approved: Richard O. Schmidt, P.E., By: [Signature]