

RECEIVED

ACCEPTANCE

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GEORGE YERKOVICH, AUDITOR
CITY OF PORTLAND, ORE.

Portland, Oregon, July 7, 1980
BY [Signature]

GEORGE YERKOVICH
Auditor of the City of Portland.
Room 202, City Hall
Portland, Oregon 97204

Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of Ordinance No. 149965, passed by the Council July 3, 1980, granting a revocable permit to Oregon-Washington Railroad and Navigation Co., Union Pacific Railroad, their successors, lessees, and assigns, to construct, equip, operate and maintain a second track from N Tyndall Avenue to N Wilbur Avenue, north of Columbia Boulevard, 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,

[Signature]

General Manager

OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY

[Signature]

General Manager

UNION PACIFIC RAILROAD COMPANY

P. O. Box 4265, Portland, OR 97208

Address

(CORPORATE SEAL)

Approved as to form
APPROVED AS TO FORM

[Signature]

City Attorney
CITY ATTORNEY

*When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.

UNION PACIFIC RAILROAD COMPANY

LAW DEPARTMENT



149965

L. JAMES BERGMANN
General Solicitor

JOHN F. WEISSER, JR.
ALLARD J. HEITKEMPER
General Attorneys

JEFF S. ASAY
ROY P. FARWELL
CAROLYN L. LARSON
Assistant General Attorneys

RANDALL B. KESTER
Senior Counsel

July 28, 1980

628 Pittock Block
P.O. Box 4265
Portland, Oregon 97208
(503) 246-2660

Mr. George Yerkovich
City Auditor
1220 S. W. Fifth Avenue
Portland, Oregon 97204

323-1-122

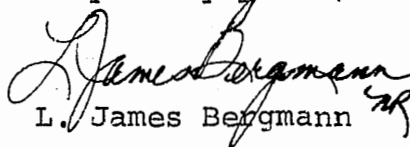
Attention: Mr. Charles J. Spear
Chief Deputy

Re: Ordinance No. 149965

Dear Mr. Yerkovich:

Enclosed is Acceptance of Ordinance No. 149965, passed July 3, 1980, granting a revocable permit to the Oregon-Washington Railroad & Navigation Company and Union Pacific Railroad Company to construct, equip, operate and maintain a second track from North Tyndall Avenue to North Wilbur Avenue, north of Columbia Boulevard in Portland. The Acceptance has been signed on behalf of the Railroads by Mr. T. P. Rogers, General Manager, Northwestern District, pursuant to delegation of authority October 1, 1975, and the corporate seals affixed.

Very truly yours,


L. James Bergmann

NPR
Enclosure

ORDINANCE NO. **149965**

An Ordinance granting a revocable permit to Oregon-Washington Railroad and Navigation Co., Union Pacific Railroad, their successors, lessees, and assigns, to construct, equip, operate and maintain a second track from N Tyndall Avenue to N Wilbur Avenue, north of Columbia Boulevard, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Oregon-Washington Railroad and Navigation Co., their successors, lessees, and assigns, and Union Pacific Railroad have, through L. James Bergman, General Solicitor, requested permission to construct, equip, operate and maintain a second track across N Tyndall Avenue and N Wilbur Avenue, north of Columbia Boulevard.
2. The plan for the tracks, attached to this Ordinance as "Exhibit A," has been approved by the City Engineer.
3. That Ordinance No. 41223 be repealed.

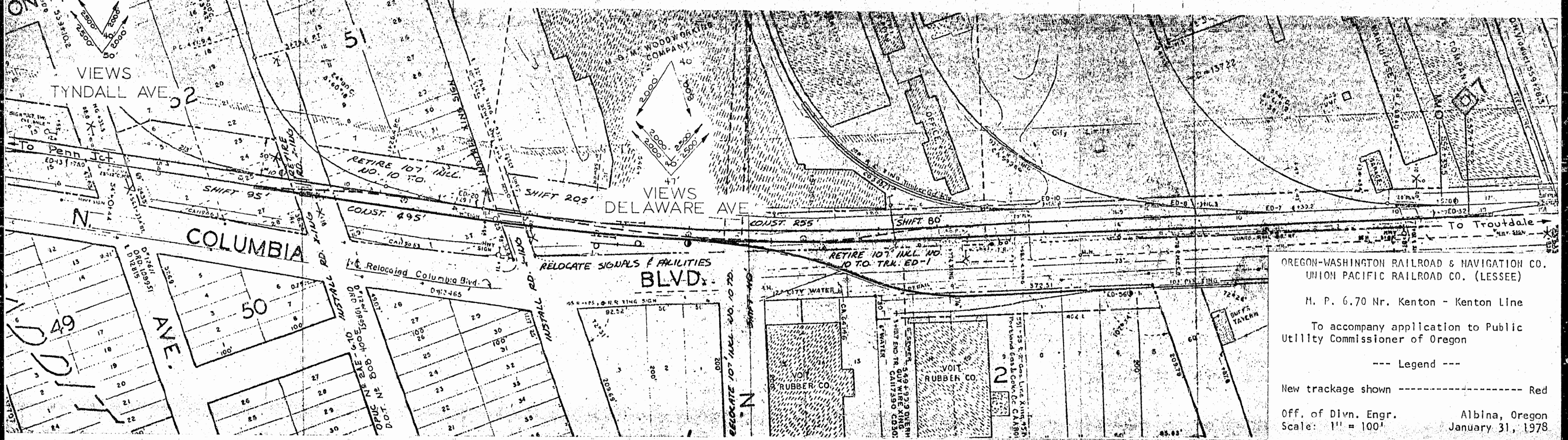
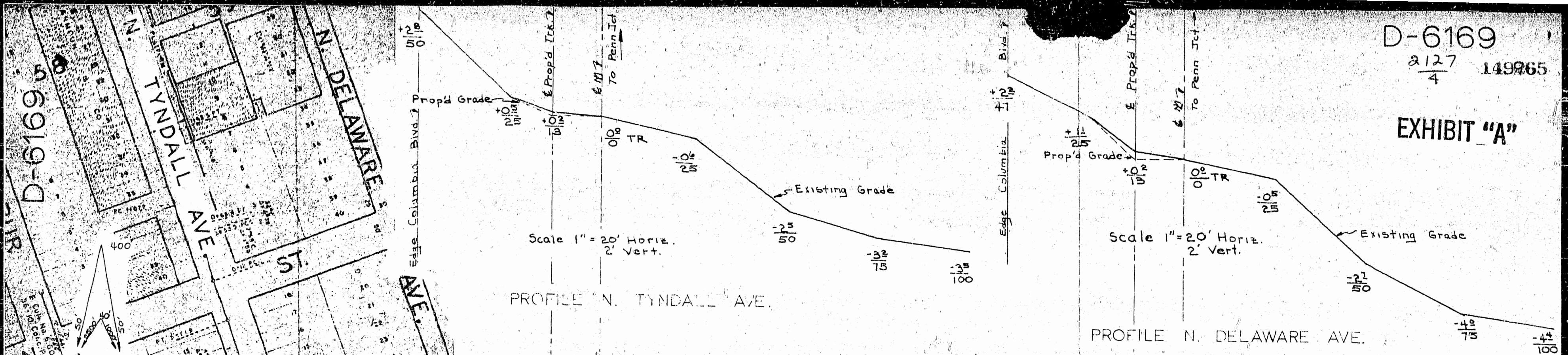
NOW, THEREFORE, the Council directs:

- a. A revocable permit is granted to Oregon-Washington Railroad and Navigation Co., Union Pacific Railroad, their successors, lessees and assigns, grantee, to relocate, construct and maintain a second 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 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 tracks shall, in the opinion of the City Engineer reasonably 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 hereinafter be built caused by the construction and maintenance of such spur track or appurtenances, the equitable amount of such cost to be determined by the City Engineer.

- (2) 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 any open and existing street between the rails of the above mentioned tracks and those portions outside the rails extending to the ends of the crossties provided that in no case shall the portion outside the rails be less than two feet in width measured from the outside of the rail.
- (3) 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 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.
- (4) 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.
- (5) 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 by the Council, the grantees shall, within a reasonable period of time remove the said track from within the street area and restore the area as required by and to the satisfaction of the City Engineer.
- (6) The grantee shall make all street repairs directed by the City Engineer within a reasonable period of time. In the event timely repairs are not made, the City shall make the necessary repairs and seek reimbursement from the grantee.

D-6169
 2127
 4 149965

EXHIBIT "A"



OREGON-WASHINGTON RAILROAD & NAVIGATION CO.
 UNION PACIFIC RAILROAD CO. (LESSEE)
 M. P. 6.70 Nr. Kenton - Kenton Line
 To accompany application to Public
 Utility Commissioner of Oregon
 --- Legend ---
 New trackage shown ----- Red
 Off. of Divn. Engr. Albina, Oregon
 Scale: 1" = 100' January 31, 1978

ORDINANCE No.

(7) 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, their agents or servants, in any manner arising from the rights and privileges hereby permitted.

(8) This permit is for use of the street area only, and shall not exempt the grantees 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. Repealing Ordinance No. 41223 being an Ordinance granting a revocable permit to the Oregon-Washington Railroad and Navigation Co., its lessees, successors and assigns, to construct, maintain and operate a standard guage passing track across N Tyndall Avenue and N Wilbur Avenue north of Columbia Boulevard, and declaring an emergency.

Section 3. This Ordinance will not become effective until the grantee shall have filed with the City Auditor a document satisfactory to the City Attorney accepting the terms and conditions hereof.

Section 4. The Council declares it is necessary that no unnecessary delay be encountered in order to grant the revocable permit herein set forth, therefore, an emergency exists and this Ordinance shall be in force and effect from and after its passage by the Council.

ORDINANCE No. 5110

ORDINANCE No. 5110

Passed by the Council,

JUL 3 1980

Commissioner Mike Lindberg
 Tom Turner:mmc
 June 17, 1980

George Yehonil
 Auditor of the City of Portland

Calendar No. 2440

ORDINANCE No. 149965

Title

An Ordinance granting a revocable permit to Oregon-Washington Railroad and Navigation Co., Union Pacific Railroad, their successors, lessees, and assigns, to construct, equip, operate and maintain a second track from N Tyndall Avenue to N Wilbur Avenue, north of Columbia Boulevard, and declaring an emergency.

THURSDAY

JUN 27 1980

Filed

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCready	1	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER

Affairs

Finance and Administration

Safety

Utilities

Works *MUSA*

BUREAU APPROVAL

Bureau: Street & Structural Engineering

Prepared By: Tom Turner:mmc Date: 6-17-80

Budget Impact Review:
 Completed Not required

Bureau Head: *Margaret*
David Vargas, Acting Chief

NOTED BY

City Attorney

City Auditor

City Engineer Approved:
John M. Lang, City Engineer

By: *JV*