DEPARTMENT OF THE ARMY PERMIT

071-0YA-1-001614

89605

Referring to written request dated <u>29 July 1974</u> for a permit to:

(X) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403);

() Discharge dredged or fill material into navigable waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Federal Water Pollution Control Act (86 Stat. 816, P.L. 92-500);

() Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052, P.L. 92-532);

City of Portland, Bureau of Water Works

1800 S.W. 6th Aven	iue ,
Portland, OR 9720	

(Here insert the full name and address of the permittee)

is hereby authorized by the Secretary of the Army to <u>lay a 36" water</u> transmission line across the river in an underwater trench and backfilled with approximately 8' of excavated material and 2' of 6"-12" minus rock.

(Here describe the proposed structure or activity, and its intended use. In the case of an application for a fill permit, describe the structure,

ENG FORM 1721 (TEMP)

if any, proposed to be erected on the fill. In the case of an application for the discharge of dredged or fill material into navigable waters or the transportation for discharge in ocean waters of dredged material, describe the type and quantity of material to be discharged.)

in Willamette River, mile 6

(Here to be named the ocean, river, harbor or waterway concerned.)

at Portland, Oregon

(Here to be named the nearest well-known locality -- preferably a town or city -- and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings: give file number or other definite identification marks.) Subject to the following conditions:

I. GENERAL CONDITIONS:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to Sections 301, 302, 306 and 307 of the Federal Water Pollution Control Act of 1972 (P.L: 92-500; 86 Stat. 816), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge or deposit of dredged or fill material into navigable waters, the authorized

activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the permittee agrees to make every reasonable effort to prosecute the construction or work authorized herein in a manner so as to minimize any adverse impact of the construction or work on fish, wildlife and natural environmental values.

e. That the permittee agrees that it will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

f. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

g. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

h. That this permit does not convey any property rights either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

i. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

1. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized herein is not started on or before day of _______, 19_____, (one year from the date of issuance of this permit unless otherwise specified) and is not completed on or before _______ day of ______, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

q. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

r. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

s. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition v hereof, he must restore the area to a condition satisfactory to the District Engineer.

t. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

u. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

v. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official. II. SPECIAL CONDITIONS: Here list conditions relating specifically to the proposed structure or work authorized by this permit. The following Special Conditions will be applicable when appropriate:

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w. STRUCTURES FOR SMALL BOATS: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

x. DISCHARGE OF DREDGED MATERIAL INTO CCEAN WATERS: That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

y. ERECTION OF STRUCTURE IN OR OVER NAVIGABLE WATERS: That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

MAINTENANCE DREDGING: (1) That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for ______years from the date of issuance of this permit (ten years unless otherwise indicated); and (2) That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

aa. All construction debris will be disposed of on land in such a manner that it cannot enter into the waterway.

bb. Care will be taken to prevent any petroleum products, chemicals or other deleterious materials from entering the water.

cc. All areas along the bank disturbed or newly created by the construction activity will be seeded, riprapped or given some other equivalent type of protection against subsequent erosion.

dd. Work in the waterway will be done so as to minimize turbidity increases in the water which tend to degrade water quality and domage aquatic life.

ec. It is understood by the permittee that work performed under this permit is further subject to such enforcement actions as may be instituted by the State of Oregon or its agencies under the provisions of Division of State Lands Material Removal Permit No. 1746.



This permit shall become effective on the date of the Distric Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

CITY OF PORTLAND

By_____

Mayor

By Commissioner of Public Utilities Permittee

Date

By authority of the Secretary of the Army:

Date

CLARENCE D. GILKEY Colonel, Corps of Engineers District Engineer

By A. J. HEINEMAN Chief, Navigation Division

Transferee hereby agrees to comply with the terms and conditions of this permit.

Date

Transferee

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DEPARTMENT OF THE ARMY

LICENSE

NO. DACN57-3-79

U. S. MOORINGS - WILLAMETTE RIVER, ORIGON

THE SECRETARY OF THE ARMY hereby grants to City of Portland, a municipal corporation organized and existing under and by virtue of the laws of the State of Oregon, with its principal office at Portland, Oregon a license, for a period of one (1) year commencing on 1 April 1975

but revocable at the will of the Secretary of the Army, to temporarily use a strip of land in connection with the construction of a 36-inch underground water pipeline at the U.S. Moorings

yellow

as shown in/ref/on Exhibit "A", City of Portland //dtherhod herdeland //

THIS LICENSE is granted subject to the following conditions:

1. That the licensee shall pay to the United States compensation in the amount of:

Payments shall be forwarded directly to

2. That the exercise of the privileges hereby granted shall be without cost or expense to the United States, under the general supervision and subject to the approval of the officer having immediate jurisdiction over the property, hereinafter referred to as "said officer," and subject also to such regulations as may be prescribed by him from time to time.

3. That any property of the United States damaged or destroyed by the licensee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the licensee to the satisfaction of the said officer, or in lieu of such repair or replacement the licensee shall, if so required by the said officer, pay to the United States money in an amount sufficient to compensate for the loss sustained by the United States by reason of damage to or destruction of Government property.

4. That the United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the licensee, or for injuries to the person of the licensee, or for damages to the property or injuries to the person of the licensee's officers, agents, servants, or employees or others who may be on said premises at their invitation or the invitation of any one of them, arising from governmental activities on the said premises, and the licensee shall hold the United States harmless from any and all such claims.

ENG FORM 808 (ER 405-1-860)

5. That, on or before the date of expiration of this license or its relinquishment by the licensee, the licensee shall vacate the said Government premises, remove all property of the licensee therefrom, and restore the premises to a condition satisfactory to the said officer, damages beyond the control of the licensee and due to fair wear and tear excepted. If, however, this license is revoked, the licensee shall vacate the premises, remove said property therefrom, and restore the premises as aforesaid within such time as the Secretary of the Army may designate. In either event, if the licensee shall fail or neglect to remove said property and so restore the premises, then, at the option of the Secretary of the Army, said property shall either become the property to be removed and the premises to be so restored at the expense of the licensee, and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work.

6. That the licensee shall pay the cost, as determined by the said officer, of producing and/or supplying any utilities and other services furnished by the Government or through Government-owned facilities for the use of the licensee, including the licensee's proportionate share of the cost of operation and maintenance of the Government-owned facilities by which such utilities or services are produced or supplied. The Government shall be under no obligation to furnish utilities or services. Payment shall be made in the manner prescribed by the said officer upon bills rendered monthly.

7. That the United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the construction, maintenance, and use of the facilities constructed by the licensee on the said premises.

8. That this license may be terminated by the licensee at any time by giving to the Secretary of the Army, through the said officer, at least ten (10) days' notice in writing; provided that, in case of such termination, no refund by the United States of any rental theretofore paid shall be made.

9. That it is to be understood that this license is effective only insofar as the rights of the United States in the property involved are concerned, and that the licensee shall obtain such permission as may be necessary on account of any other existing rights.

10. That the licensee shall not discriminate against any person or persons because of race, creed, color or national origin in the conduct of its operations thereunder. The licensee furnishes as part of this contract an assurance (Exhibit "C") that it will comply with Title VI of the Civil Rights Act of 1964 (73 Stat. 241) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Fart 300 of Title 32, Code of Federal Regulations.

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That prior to the execution of this license, the Granting Clause was modified, Condition No. 1 was deleted and Condition No. 10 was added.

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10. - That Condition (s) - No. (s) the execution of this License:

- was- (were). deleted before.

This License is not subject to Title 10, United States Code, Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army

this 28th dry of January 19 75.

D. H. NELLEN Chief, Peal Estate Division U. S. Army Engineer District, Portland

The above instrument, together with all the conditions thereof, is hereby accepted this

By

By

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day of

19 75.

Approved as to form:

Mayor

CITY OF PORTLAND

City Attorney

Commissioner of Public Utilities

U.S. GOVERNMENT FRINTING DEFICE 1959-0-501 784

100-1.3



EASEMENT DESCRIPTION

A description of two parcels of land reserved as a permanent easement for the purpose of installing and maintaining a water main, said parcels located on property deeded to the United States of America, located in the southeast quarter of Section II, TIN, RIW, Willamette Meridian, Multhomah County, Oregon, more particularly described as follows:

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EXH.DIT 6

Parcel 1

A strip of land bounded by lines lying 10.00 feet on each side of and parallel to the herein described centerline; the point of beginning of which is the northwesterly corner of that property deeded to the United States of America; thence South 38°00' East 10.00 feet along the right-of-way line of U.S. Highway 30 to the True Point of Beginning of Parcel 1; thence North 52°00' East parallel to the United States of America property line 113.00 feet to a point of intersection with the right-of-way of the Burlington Northern Railway.

Parcel 2

A strip of land bounded by lines lying 10.00 feet on each side of and parallel to the herein described centerline; the Point of Beginning of which is the above-described point of intersection of the centerline of Parcel 1 with the railroad rightof-way thence continuing North 52°00' East 60.00 feet to the easterly right-of-way of the Burlington Northern Railway, which is the True Point of Beginning of Parcel 2; thence continuing North 52°00' East parallel to the northwesterly common property line of the United States of America and General Construction Company 96.60 feet, thence North 70°33' East 295.50 feet, thence North 39°48' East 77.60 feet to a point of intersection with the Westerly Harbor Line of the Willamette River.

TEMPORARY EASEMENT

Those parcels of land 30 feet wide, lying east of, adjace. to, and along the full length of Parcels 1 and 2 described above, as shown on the attached drawing, Exhibit A. Said easement to exist only during the period of construction of a water main within Parcels 1 and 2.

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE DIRECTIVE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

CITY OF PORTLAND (hereinafter called "Applicant-Recipient") (Name of Applicant-Recipient)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. SS-352) and all requirements imposed by or pursuant to the Directive of the Department of Defeuse (32 CFR Part 300, issued as Department of Defeuse Directive 5500.11, December 28, 1964) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Directive, no person in the United States shall, on the ground of race, color/or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from <u>Department of the</u> (Component of the

Army and HEREBY GIVES ASSURANCE THAT it will immediately

take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by this Department of the Army, assurance shall obligate the Applicant-Recip-(Component of the Department)

ient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant-Recipicat for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by <u>Department of the Army</u>. (Component of the Department)

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant-Recipient by the Department, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant-Recipient.

Dated JUN 2 8 1974	. CITY OF PORTLAND
Be	And Applicant Recipient)
1220 S. W. Fifth Avenue	(PAXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Portland, Oregon 97204 (Applicant-Recipient's Mailing Address)	EXHIBIT C
	• • • • · · · ·

ORDINANCE No. 139605

An Ordinance authorizing the Mayor and Commissioner of Public Utilities to execute the acceptance of a temporary easement and a dredging permit from the United States Department of the Army necessary to allow the Bureau of Water Works to place a 36-inch water transmission line across the Willamette River, and declaring an emergency.

The City of Portland ordains:

Section 1. The City Bureau of Water Works proposes to lay a 36-inch water transmission line beneath the Willamette River in the St. Johns Bridge area; that in order to do so it is necessary to acquire a dredging permit and a temporary easement from the United States Department of the Army due to their jurisdiction over this navigable river; that the negotiations for same have been completed and the Department of Army has supplied the city with the appropriate documents for the city's acceptance; that the Manager of the Bureau of Water Works has recommended and the Commissioner in charge has approved the acceptance of the dredging permit, marked as Exhibit "A," and the acceptance of the temporary easement, marked as Exhibit "B";

NOW, THEREFORE, the Mayor and Commissioner of Public Utilities hereby are authorized to execute an acceptance of a dredging permit from the Department of the Army, similar in form to Exhibit "A," attached to the original only hereof and by this reference made a part hereof, and to execute the acceptance of a temporary easement from the Department of the Army, similar in form to Exhibit "B," attached to the original only hereof, and by this reference made a part hereof.

Section 2. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that the temporary easement and dredging permit may be executed without undue delay; therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

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Ng	R	CI/fg		14	Attest:
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GEORGE YERKOVICH

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	Goldschmidt	Schwab	McCready	Jordan	Ivancie	FOUR-FIFTHS	139605	Goldschmidt	Schwab	McCready	Jordan	Ivancie	RD	THE COM
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Section 1. The City Bureau of Water Works proposes to ay a 36-inch water transmission line beneath the Willamette iver in the St. Johns Bridge area; that in order to do so

