

July 23, 1976

UNION COUNTY COURT

SECOND JUDICIAL DAY

cont.

WHEREAS, that order was referred to the people by resolution pursuant to ORS 451.487 in an election held on April 20, 1976; and

WHEREAS, that order was rejected by the people; and

WHEREAS, the County Court has issued a modified order pursuant to ORS 451.485 determining the service facilities to be constructed, maintained, and operated and the manner of financing this undertaking as well as the method by which the District shall bear these costs

NOW THEREFORE BE IT RESOLVED by the Union County Court acting as the governing body of the Union County Solid Waste Disposal Service District that pursuant to ORS 451.487 that this matter be referred to a vote of the people of Union County within the Service District. This election shall be held on the 21st day of September 1976 pursuant to ORS 259.260.

DATED this 23rd day of July 1976

Earle C. Misener, County Judge
Harold Schwebke, County Commissioner
Ralph Robinson, County Commissioner

* * * * *
HIGHWAY EASEMENT/CONSTRUCTION AGREEMENT
covering relocation of a portion of
Union county Road No. 271 upon, along
and across the Railroad's Oregon Main
Line right of way and tracks between
mileposts 281.66 and 282.53, Hilgard,
Union County, Oregon - PLD 323-1-57.1
Property Dept. Deed No. 14017

THIS AGREEMENT is made as of the 1st day of March, 1976, by and between OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY, an Oregon corporation, and its lessee, UNION PACIFIC RAILROAD COMPANY, a Utah corporation (hereinafter collectively called "Railroad"), and UNION COUNTY, a municipal subdivision of the State of Oregon, acting by and through its Board of County Commissioners (hereinafter called "Second Party").

RECITALS:

Second Party, with the aid of Federal funds under the Federal-Aid Highway Act, has undertaken as its "project" the improvement, reconstruction, and relocation of a portion of county road No. 271 at Hilgard, Union county, Oregon. Said project involves the abandonment of portions of said county road in Sections 30 and 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, on the north side of the Railroad's right of way between the Railroad's main line mileposts 281.66 and 282.53. Second Party proposes to relocate said roadway to the southerly side of the Railroad's said right of way. Said project, in conjunction with the grade crossing established at railroad mile post 282.53 (designated in the Catalog of Crossings of the Public Utility Commissioner of Oregon as Crossing No. 2A-282.50, and established pursuant to PUC Order No. 44158 dated January 8, 1968 in cause SXF-371), will permit the closure of two existing grade crossings of the Railroad's right of way and tracks (1) at Milepost 282.10 (designated Crossing No. 2A-282.10 in said PUC Catalog of Crossings), and (2) at milepost 281.66 (designated Crossing No. 2A-281.70 in said PUC Catalog of Crossings). Said project will also permit the public using said county road to utilize the aforementioned existing grade crossing established pursuant to PUC cause SXF-371, which is improved with automatic electric warning devices.

Second Party's project requires an easement from the Railroad along the southerly portion of the Railroad's right of way between said mileposts 281.66 and 282.53 in Section 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, on which to relocate said County road, and an easement to maintain and use as a county road the existing road across the Railroad's right of way at milepost 282.53. The Railroad is willing to grant Second Party the necessary easements required to relocate and reconstruct its said public road on the southerly side of the Railroad's right of way, subject to the terms and conditions hereinafter set forth. Said public road, as reconstructed and relocated along the southerly side of the Railroad's said right of way and across said right of way at milepost 282.53, is hereinafter referred to as "highway". This agreement is made for the purpose of granting Second Party the easements hereinafter described to prescribe the terms and conditions thereof, to govern the conduct of the project insofar as it may affect the Railroad, its operation and facilities, and for the protection of the Railroad and the public, and related matters.

NOW THEREFORE, IT IS AGREED by and between the parties hereto as follows:
Section 1. EASEMENTS GRANTED.

(a) So far as it lawfully may do so, but subject to each and all of the terms, provisions, conditions, covenants, reservations and exceptions contained in this agreement, and further subject to each and all of the conditions imposed or which may be imposed by the Public Utility Commissioner of Oregon, the Railroad grants to Second Party:

(1) An easement to improve, reconstruct and relocate its county road No. 271, and thereafter to maintain, repair, renew and use said county road as a public highway as part of Second Party's county highway system, upon, along, over and at common grade with that portion of the Railroad's property shown hatched black on print D-6019-1 dated March 10, 1976, marked Exhibit "A", attached hereto and by this reference made a part hereof, and more particularly described as Parcels 1, 2, and 3, in Exhibit "B": attached hereto and by this reference made a part hereof, and

(2) An easement to maintain, repair, renew, and use a public highway, as part of Second Party's county highway system, upon, over and across and at common grade with that portion of the Railroad's property shown in black dot shading on Exhibit "A", and more particularly described as Parcel 4 in Exhibit "B".

(b) In consideration for the easements granted as aforesaid, Second Party shall and will do, keep, observe and perform each and all of the terms, provisions, conditions and covenants of this agreement.

(c) The Railroad grants said easement (s) only insofar as it lawfully may do so, and the Rail-

July 23, 1976

UNION COUNTY COURT

SECOND JUDICIAL DAY

road makes no covenant or warranty of title, for quiet possession or against encumbrances. Said easement (s) include(s) only the Railroad's property identified in paragraph (a) of this section and no other property; and Second Party, by virtue of this grant, shall not encroach upon, occupy or use any other property of the Railroad and shall not permit oerhes acting under Second Party's authority to encroach upon, occupy or use any other property of the Railroad. Second Party's use of said property and its maintenance, repair, and renewal of the highway facilities thereon, shall be subject at all times to the safety measures set forth in Section 5 of this agreement.

(d) The Railroad grants to Second Party only easement(s) for the purposes aforesaid and no other or greater estate. Second Party shall not use or permit use of said property or any part thereof for any other purpose. without limiting the foregoing, Second Party shall not use or permit use of said property or any part thereof for railroad purposes, or for gas, oil or gasoline pipelines. Second Party may construct lines on said property for the purpose of conveying electric power or communications incidental to Second Party's use of the property for highway purposes, provided such lines are constructed in accordance with the specifications and requirements of the Railroad and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by Second Party to use or occupy any part of the Railroad's property for any purpose, except as specifically provided for herein, without the Railroad's written consent. Nothin herein shall obligate the Railroad to give such consent, which, if granted, may be subject to such terms and conditions as the Railroad, in its sole discretion, may deem to be necessary for convenient. If at any time said property of the Railroad or any part thereof, shall permanently cease to be used for the purposes aforesaid or shall be used for purposes unauthorized hereby, then the easement(s) hereby granted as to such property or parts thereof shall cease and terminate.

(e) If any property or rights other than the easement(s) hereby granted are necessary for the construction, maintenance and use of the highway and its appurtenances, or for the performance of any work contemplated by this agreement, Second Party will acquire all such other property and rights at Second Party's own expense and without expense to the Railroad.

balance of agreement attached - starts on page 4

HIGHWAY EASEMENT/CONSTRUCTION AGREEMENT covering relocation of a portion of Union County Road No. 271 upon, along and across the Railroad's Oregon Main Line right of way and tracks between mileposts 281.66 and 282.53, Hilgard, Union County, Oregon - PLD 323-1-57.1 Property Dept. Deed No. 14017

FILED
AT 11:21 AM

JUL 26 1976

SHIRLEY L. BOLIN
COUNTY CLERK

BY *Shirley L. Bolin*
DEPUTY

THIS AGREEMENT is made as of the 1st day of March, 1976, by and between OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY, an Oregon corporation, and its lessee, UNION PACIFIC RAILROAD COMPANY, a Utah corporation (hereinafter collectively called "Railroad"), and UNION COUNTY, a municipal subdivision of the State of Oregon, acting by and through its Board of County Commissioners (hereinafter called "Second Party").

RECITALS:

Second Party, with the aid of Federal funds under the Federal-Aid Highway Act, has undertaken as its "project" the improvement, reconstruction and relocation of a portion of county road No. 271 at Hilgard, Union County, Oregon. Said project involves the abandonment of portions of said county road in Sections 30 and 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, on the north side of the Railroad's right of way between the Railroad's main line mileposts 281.66 and 282.53. Second Party proposes to relocate said roadway to the southerly side of the Railroad's said right of way. Said project, in conjunction with the grade crossing established at railroad milepost 282.53 (designated in the Catalog of Crossings of the Public Utility Commissioner of Oregon as Crossing No. 2A-282.50, and established pursuant to PUC Order No. 44158 dated January 8, 1968 in cause SXF-371), will permit the closure of two existing grade crossings of the Railroad's right of way and tracks (1) at milepost 282.10 (designated Crossing No. 2A-282.10 in said PUC Catalog of Crossings), and (2) at milepost 281.66 (designated Crossing No. 2A-281.70 in said PUC Catalog of Crossings). Said project will also permit the public using said county road to utilize the aforementioned existing grade crossing established pursuant to PUC cause SXF-371, which is improved with automatic electric warning devices.

Second Party's project requires an easement from the Railroad along the southerly portion of the Railroad's right of way between said mileposts 281.66 and 282.53 in Section 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, on which to relocate said county road, and an easement to maintain and use as a county road the existing

road across the Railroad's right of way at milepost 282.53. The Railroad is willing to grant Second Party the necessary easements required to relocate and reconstruct its said public road on the southerly side of the Railroad's right of way, subject to the terms and conditions hereinafter set forth. Said public road, as reconstructed and relocated along the southerly side of the Railroad's said right of way and across said right of way at milepost 282.53, is hereinafter referred to as "highway". This agreement is made for the purpose of granting Second Party the easements hereinafter described, to prescribe the terms and conditions thereof, to govern the conduct of the project insofar as it may affect the Railroad, its operations and facilities, and for the protection of the Railroad and the public, and related matters.

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

Section 1. EASEMENTS GRANTED.

(a) So far as it lawfully may do so, but subject to each and all of the terms, provisions, conditions, covenants, reservations and exceptions contained in this agreement, and further subject to each and all of the conditions imposed or which may be imposed by the Public Utility Commissioner of Oregon, the Railroad grants to Second Party:

(1) An easement to improve, reconstruct and relocate its county road No. 271, and thereafter to maintain, repair, renew and use said county road as a public highway, as part of Second Party's county highway system, upon, along, over and at common grade with that portion of the Railroad's property shown hatched black on print D-6019-1 dated March 10, 1976, marked Exhibit "A", attached hereto and by this reference made a part hereof, and more particularly described as Parcels 1, 2 and 3 in Exhibit "B" attached hereto and by this reference made a part hereof; and

(2) An easement to maintain, repair, renew and use a public highway, as part of Second Party's county highway system, upon, over and across and at common grade with that portion of the Railroad's property shown in black dot shading on Exhibit "A", and more particularly described as Parcel 4 in Exhibit "B".

(b) In consideration for the easements granted as aforesaid, Second Party shall and will do, keep, observe and perform each and all of the terms, provisions, conditions and covenants of this agreement.

(c) The Railroad grants said easement(s) only insofar as it lawfully may do so, and the Railroad makes no covenant or warranty of title, for quiet possession or against encumbrances. Said easement(s) include(s) only the Railroad's property identified in paragraph (a) of this section and no other property; and Second Party, by virtue of this grant, shall not encroach upon, occupy or use any other property of the Railroad, and shall not permit others acting under Second Party's authority to encroach upon, occupy or use any other property of the Railroad. Second Party's use of said property and its maintenance, repair and renewal of the highway facilities thereon, shall be subject at all times to the safety measures set forth in Section 5 of this agreement.

(d) The Railroad grants to Second Party only easement(s) for the purposes aforesaid and no other or greater estate. Second Party shall not use or permit use of said property or any part thereof for any other purpose. Without limiting the foregoing, Second Party shall not use or permit use of said property or any part thereof for railroad purposes, or for gas, oil or gasoline pipelines. Second Party may construct lines on said property for the purpose of conveying electric power or communications incidental to Second Party's use of the property for highway purposes, provided such lines are constructed in accordance with the specifications and requirements of the Railroad and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by Second Party to use or occupy any part of the Railroad's property for any purpose, except as specifically provided for herein, without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent, which, if granted, may be subject to such terms and conditions as the Railroad, in its sole discretion, may deem to be necessary or convenient. If at any time said property of the Railroad, or any part thereof, shall permanently cease to be used for the purposes aforesaid or shall be used for purposes unauthorized hereby, then the easement(s) hereby granted as to such property or parts thereof shall cease and terminate.

(e) If any property or rights other than the easement(s) hereby granted are necessary for the construction, maintenance and use of the highway and its appurtenances, or for the performance of any work contemplated by this agreement, Second Party will acquire all such other property and rights at Second Party's own expense and without expense to the Railroad.

(f) The easement(s) hereby granted are subject to any and all encumbrances and rights (whether public or private), irrespective of whether or not they are recorded, existing at the time of granting said easement(s), and also to any and all extensions and renewals of said existing encumbrances and rights. Second Party shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's said property, unless Second Party; at Second Party's own expense, settles with and obtains release from such nonparties on mutually satisfactory terms.

(g) The easement(s) hereby granted are subject and subordinate to the prior and continuing right and obligation of the Railroad, its successors and assigns, to use all the property described herein in the performance of its duty as a common carrier and for all lawful railroad purposes. The Railroad reserves the right to use and to grant to other parties the right to use said property for any and all purposes not inconsistent with the easement(s) hereby granted: Said purposes include, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace existing and additional wire lines, pipelines, roads, tracks, facilities and appurtenances, located or to be located either wholly or partly within said property, in such manner, however, as not to damage the highway facilities located on said property; the right to attach signal, communication or power lines and facilities to any highway facilities located upon said property, subject, however, to Second Party's policy on utility installations and approval by Second Party of detailed plans of the proposed attachment; and the right to use, occupy, cross and operate across said property and the highway facilities located thereon, with track equipment and off-track equipment.

(h) Second Party will assume, bear and pay all taxes and assessments of whatsoever kind or nature (whether general, local or special) levied or assessed upon or against said property, excepting taxes levied upon and against said property as a component part of the Railroad's operating property as a whole.

(i) The easement granted Second Party upon and across the Railroad's right of way and tracks shown in black dot shading on Exhibit "A", and described as Parcel 4 in Exhibit "B", for the use of the crossing designated Crossing No. 2A-282.50, is subject to a prior grant of easement to the United States of America by and through the Regional

Forester of Region 6 of the Forest Service, Department of Agriculture, pursuant to the terms and provisions of that certain agreement dated January 28, 1970, and is subject to each and all of the terms and conditions thereof. Second Party acknowledges receipt of a copy of said agreement dated January 28, 1970 between the Railroad and the United States of America. As between the Railroad and Second Party, Second Party shall be fully responsible for maintenance and repair of the highway facilities and its appurtenances constructed within said easement area; PROVIDED; however, Second Party shall be privileged by separate agreement with the United States of America to agree on a mutually acceptable division of said obligations and responsibilities so long as the Railroad is not subjected to any additional costs or expenses or liabilities arising therefrom, and so long as said division of responsibilities does not impose on the Railroad any additional risks or liabilities. In the event said easement in favor of the Forest Service shall terminate, pursuant to the provisions of said agreement dated January 28, 1970, by reason of abandonment or for any other reason, all obligations for the maintenance and repair of the highway and appurtenant facilities within said easement area shall automatically be and become the sole obligations of Second Party without further act or modification of this agreement.

Section 2. CONSTRUCTION OF HIGHWAY.

(a) Second Party, at its own expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the project contemplated by this agreement, and each and every part thereof, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained. All construction work by Second Party shall be performed in accordance with the terms and conditions imposed by said public authority in granting its approval, and in accordance with this agreement.

(b) Except as may be otherwise provided in Section 3 of this agreement, Second Party, at its own expense and without expense to the Railroad, will furnish all labor, material and equipment necessary for, and shall and will construct and complete said highway and all appurtenances thereof. As used in this agreement, "appurtenances" shall include, without limitation, all embankment slopes between the highway and the Railroad's tracks, all necessary and proper drainage facilities, all necessary and proper advance warning signs, and all necessary and proper guardrails or

barriers between the highway and the Railroad's tracks and facilities, which guardrails or barriers shall be of suitable design and adequate to confine highway traffic, and to protect the Railroad's property and facilities and any highway-rail protective devices. Upon completion of the work, Second Party shall remove from the Railroad's property all temporary structures and falsework, and will leave said property in a condition satisfactory to the Railroad.

(c) The Railroad will receive no ascertainable benefit from the construction of the project, and, except as may be specifically provided herein, shall not be required to pay or contribute any part of the cost thereof. If said project is to be financed in whole or in part by Federal funds, all construction work by Second Party shall be performed in accordance with the Federal Act, Federal regulations and with this agreement.

(d) All construction work of Second Party upon the Railroad's property (including, but not limited to, construction of the highway and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Chief Engineer of the Railroad or his authorized representative and in accordance with detailed plans and specifications prepared by and at the expense of Second Party, and approved in writing by the Railroad's Chief Engineer. Said plans and specifications, and the work performed thereunder, shall be in accordance with the typical sections and notes pertaining to construction as set forth in Exhibit "A" attached hereto.

(e) All construction work of Second Party shall be performed diligently and completed within a reasonable time, and in any event within three years from the effective date of this agreement, or within such further period of time as may be specified in writing by the Railroad's General Manager. No part of said work shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of Second Party and its contractors. Second Party, for itself and its contractors, hereby assumes the risk of any and all such delays and agrees that no claims for damage shall be made against the Railroad because thereof.

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Section 3. WORK TO BE DONE BY RAILROAD.

(a) The Railroad may make any and all changes, alterations or relocations, whether temporary or permanent, which in its judgment may be or become necessary or expedient because of the project. Such work shall include, without limitation, the work detailed in Exhibit(s) "A" and "C" attached hereto and incorporated herein, for which the Railroad shall furnish all necessary labor, material and equipment.

(b) Second Party will reimburse the Railroad for the entire cost and expense of performing all work referred to in paragraph (a) of this section. Reimbursement for the use of railroad owned and operated equipment will be in accordance with Union Pacific Railroad Company's Billing and Contracts' Bulletin in effect on the date of use of such equipment. Rental rates for any item of equipment necessary to the job and not included in said Billing and Contracts' Bulletin will be established on an individual basis and agreed to by the parties. Bills for reimbursement shall be paid by Second Party promptly upon receipt thereof, in the manner and at the time provided therein. The Railroad will submit to Second Party bills for flagging and other protective services and devices currently during progress of the work contemplated by this agreement. The Railroad will submit complete billing for flagging and other protective services within one hundred and twenty (120) days after completion of the project, provided Second Party advises the Railroad of the commencement of the 120-day period by giving the Railroad written notification of completion of the project.

(c) Subject to the foregoing, if the project is financed with Federal funds, under the Federal-Aid Highway Act, reimbursement of the Railroad by Second Party shall be in accordance with the provisions of Volume 1, Chapter 4, Section 3, of the Federal-Aid Highway Program Manual (FHPM) issued April 25, 1975 by the United States Department of Transportation, Federal Highway Administration, and any amendments thereof or supplements thereto; provided, the use of said regulations as a guideline for reimbursement between the parties hereto shall not be deemed to require reimbursement of Second Party by the Federal Highway Administration as a condition precedent to Second Party's obligation. If Second Party desires to secure reimbursement from the Federal Highway Administration for all phases of the work performed by the Railroad, it is the responsibility of Second Party to ensure that interpretation of said regulations will permit Federal participation in the cost and expense of work which, pursuant hereto, is to be performed by the Railroad at the expense of Second Party.

Section 4. MAINTENANCE. Upon completion of the construction of the project, the Railroad, at its own expense, will maintain its tracks and facilities, and the flashing light signals, gates and crossbucks at Crossing No. 2A-282.50. Second Party, at its own expense, shall maintain the highway and all appurtenances thereof, including, without limitation, the drainage facilities, guardrails, highway cattle guards and advance warning signs.



Section 5. SAFETY MEASURES. All work of Second Party contemplated by this agreement, including any work of maintenance of the highway facilities or appurtenances constructed on the easement(s) granted pursuant hereto, shall be performed and accomplished without interruption to or delay of operations of the Railroad or of others lawfully occupying or using their property or facilities, and without interruption to or delay of continuous railroad traffic. It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of Second Party that:

(a) All references in this section to Second Party and its work shall include, besides Second Party, its contractors, subcontractors, officers, agents and employees, and others acting under its or their authority; and all references in this section to work of Second Party shall include such work, not only within the Railroad's property, but also in the vicinity thereof, but outside of the Railroad's property.

(b) Second Party shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities or any communication or signal lines, installations or appurtenances of any thereof. Second Party shall shelter and protect the Railroad's said property as required by the Railroad.

(c) Second Party, at its own expense, shall adequately police and supervise all work to be performed by it; shall regulate the conduct thereof in such manner that the prosecution thereof will not endanger, interfere with, hinder or delay operations of the Railroad or of others lawfully using or occupying the Railroad's property or facilities; and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad or such others may be responsible, or to property of the Railroad or such others.

(d) If at any time Second Party's engineers and the Chief Engineer of the Railroad or their respective representatives shall be of the opinion that any work of Second Party is being or is about to be done or prosecuted without due regard and precaution for safety and security, Second Party shall cause such work to be suspended until suitable, adequate and proper protective measures are adopted and provided.

(e) Second Party shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad in connection with or as a result of the project or any work contemplated by this agreement; and any such material and debris shall be promptly removed from the Railroad's property by Second Party at its own expense or by the Railroad at the expense of Second Party, and any damage caused thereby shall be promptly restored and repaired by Second Party at its own expense, or by the Railroad at the expense of Second Party. Second Party shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during the course of Second Party's operations of removing snow from its highway.

(f) Second Party shall not discharge any explosives on or in the vicinity of the Railroad's property (i) if, in the sole discretion of the Railroad's Chief Engineer, such discharge would be dangerous or would interfere with the Railroad's property or facilities; and (ii) unless adequate notice thereof is given to the Railroad. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons on the Railroad's property, or cause damage to or interference with the facilities or operations on the Railroad's property. Unless the Railroad's Chief Engineer shall agree to a shorter notice with respect to a particular proposed discharge of explosives, "adequate notice" shall be deemed to require not less than forty-eight (48) hours' notice, exclusive of weekends and holidays. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in its sole discretion, may deem to be necessary, desirable or appropriate. In addition to any conditions, restrictions or limitations as may be specifically imposed:

(1) Any explosives loaded in holes or placed or otherwise readied for discharge on a day shall be discharged on the same day during daylight hours, and at such times and in such manner as will not endanger the Railroad's employees or property or interfere with the Railroad's operations.

(2) Second Party, at its own expense, shall take all measures and precautions and construct all temporary shelters necessary to guard and protect the Railroad's employees, property, facilities and operations against danger of damage, destruction or interference arising out of or connected with any blasting or any transportation, handling, storage, security or use of explosives on or in the vicinity of the Railroad's tracks, property or operations.

(3) Second Party shall require at all times that explosives be transported, handled, stored or otherwise secured and used in a manner satisfactory to the Railroad and in accordance with local, state and Federal laws, rules and regulations, including, without limitation, United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction, 29 CFR Part 1518, Subpart U—"Blasting and the Use of Explosives"; and Occupational Safety and Health Administration Occupational Safety and Health Standards, 29 CFR Part 1910, Subpart H—"Hazardous Materials".

(g) Second Party shall not place any combustible material upon or about the premises of the Railroad, nor erect any structure thereon (except as herein otherwise provided), nor cause or permit the view along the tracks of the Railroad to be obstructed, nor obstruct or interfere with the drainage ditches, drainage facilities or water facilities of the Railroad.

(h) If Second Party shall excavate from existing slopes adjacent to the tracks of the Railroad or create new slopes in the performance of any work contemplated hereby, Second Party shall so excavate from existing slopes and construct new slopes that the pitch of same shall not be excessive, nor create undue hazards of slides or falling rock, nor impair or endanger the clearance between said existing or new slopes and the tracks of the Railroad.

(i) Second Party, at its own expense, shall provide and maintain suitable facilities for draining the highway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. Second Party, at its own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culverts and drainage facilities), so that said waters may not because of any facilities or work of Second Party be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others.

(j) Before commencing any construction or other substantial work contemplated by this agreement, Second Party shall notify the Superintendent of the Railroad of the time when such work shall commence. Said notice shall be given not less than forty-eight (48) hours, exclusive of weekends and holidays, prior to the time work is to commence. Second Party shall cooperate with the Railroad in every reasonable way for the adequate protection of the Railroad's facilities and operations during progress of the work.

(k) Second Party shall not do or cause to be done in the performance of any work contemplated hereby, anything which will or may disturb the stability of any area so as to adversely affect the tracks or facilities of the Railroad.

(l) Second Party, at its own expense, shall and will install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by it in connection with construction, maintenance or other work of any kind contemplated by this agreement. Said shoring and cribbing shall be constructed and maintained with such materials and in such manner as to withstand all stresses likely to be encountered, including, but not by way of limitation, any stresses resulting from vibration caused by the Railroad's operations at or in the vicinity of such work; and such shoring and cribbing shall be installed and maintained in a manner satisfactory to the Chief Engineer of the Railroad or his authorized representative.

(m) The responsibility of Second Party for safe conduct and adequate policing and supervision of the project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the worksite of the Railroad's representatives, or by compliance by Second Party with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the project, Second Party will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

Section 6. INSURANCE.

(a) Before work is commenced on the project, and thereafter before commencement by any contractor for Second Party of any maintenance work on the highway within any easement area described herein or shown on the exhibits attached hereto, Second Party, without expense to the Railroad, shall furnish and deliver to the Railroad, or shall require each of its contractors to furnish and deliver to the Railroad, a public liability and property damage insurance policy or policies in favor of the Railroad; and Second Party, without expense to the Railroad, at all times during progress of and until final completion of the project, and until completion of such maintenance work, shall keep and maintain, or cause its contractors to keep and maintain, such policy or policies in full force and effect. The Railroad, upon request of Second Party, may purchase any such policy for which Second Party is responsible pursuant hereto, and Second Party shall reimburse the Railroad for the full amount of the cost of such policy.

(b) Said public liability insurance shall provide for a maximum limit of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for all damages arising out of bodily injuries to or death of one person, and subject to that limit for each person, a total maximum limit of ONE MILLION DOLLARS (\$1,000,000) for all damages arising out of bodily injuries to or death of more than one person in any one occurrence. Said property damage insurance shall provide for a maximum limit of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for all damages arising out of injury to or destruction of property in any one occurrence, and subject to that limit, a total (or aggregate) maximum limit of ONE MILLION DOLLARS (\$1,000,000) for all damages arising out of injury to or destruction of property during the period of work.

(c) The terms "person" or "persons" as herein used shall include employees of the Railroad, as well as other persons, and the term "property" as herein used shall include, as well as other property, property owned by and property in the care, custody or control of the Railroad.

(d) Each such insurance policy shall be issued by a reliable insurer satisfactory to the Railroad and authorized to do business in the state in which the work is to be performed, and each such policy shall be in form and substance satisfactory to the Railroad. The original and one true and complete copy of said policy or policies shall be delivered to and remain in the possession of the Railroad.

(e) Each such policy or policies shall conform substantially with the Public Liability and Property Damage Policy provided in United States Department of Transportation, Federal Highway Administration directives as published in its Federal-Aid Highway Program Manual, Volume 6, Chapter 6, Section 2, Subsection 2. Each such policy or policies shall cover all work to be performed and all operations to be conducted under this agreement. The monetary limits of insurance furnished in connection with the future reconstruction or maintenance work on the highway within the easement area(s) described herein or shown on the exhibit(s) attached hereto, shall conform to the limits prescribed by the Railroad in connection with new public projects at the time the work of maintenance or reconstruction is performed.

(f) In addition to the above insurance, and before work is commenced on the project, Second Party, without expense to the Railroad, shall furnish and deliver to the Railroad, or shall require its contractor to furnish and deliver to the Railroad, a certificate certifying as to the contractor's regular property damage insurance with respect to said contractor's own operations and, in addition, with respect to operations performed for said contractor by subcontractors under this agreement, with limits of not less than TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) arising out of injury to or destruction of property in any one occurrence, and subject to that limit per occurrence, a total, or aggregate, limit of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for all damages arising out of injury to two or more persons in any one occurrence or destruction of property during the policy period. Each such certificate shall apply to all policies covering work to be performed and all operations to be conducted under this agreement, and shall be kept in full force and effect until completion of the project. Such certificate shall also contain a provision that the policy shall not be cancelled or changed without giving thirty (30) days' prior written notice to the Railroad.

Section 7. INJURY AND DAMAGE. If Second Party or its contractors, subcontractors, officers, agents or employees, or others acting under its or their authority, in the performance of any work contemplated by this agreement or by the failure to do or perform anything for which it is responsible under the provisions of this agreement, shall injure, damage or destroy any property of the Railroad or of any other corporation, person or firm lawfully occupying or using the property of the Railroad, such damage shall be restored by Second Party at its own expense or by the Railroad at the expense of Second Party.

Section 8. DEFAULT. If Second Party shall fail, refuse or neglect to do, keep, observe and perform each and all of the terms, provisions, conditions and covenants of this agreement, the Railroad, in addition to any other rights and remedies it may have, may perform any work which in the judgment of the Railroad is necessary to place said highway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and Second Party will reimburse the Railroad for the expense thereof.

Section 9. EFFECTIVE DATE. This agreement shall become effective as of the date first herein written, or as of the date on which work on the said project was commenced, whichever is earlier.

Section 10. OTHER RAILROADS. All protective and indemnifying provisions of this agreement shall inure to the benefit of the Railroad and any other railroad company or companies at any time lawfully using the Railroad's property or facilities.

Section 11. CLOSURE AND VACATION OF EXISTING COUNTY ROAD CROSSINGS. Upon completion of construction of the highway, Second Party shall close, vacate and remove the existing crossings listed in the Public Utility Commissioner of Oregon's Catalog of Crossings as Nos. 2A-282.10 and 2A-281.70, along with the existing crossing protection and advance warning signs located at said crossings, and shall fence the Railroad's right of way across said roads and crossings. The Railroad, at its own expense, will remove the crossing surfaces from said crossing areas within the Railroad's right of way. Within three (3) months following completion of said project, Second Party, in conjunction with the Railroad, shall notify the Public Utility Commissioner of Oregon of the closure of said crossings, and

shall furnish the Railroad a certified copy of Second Party's ordinance vacating that portion of Second Party's said public road across the Railroad's right of way at Crossings 2A-282.10 and 2A-281.70.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, in duplicate, as of the day and year first herein written.

OREGON-WASHINGTON RAILROAD
& NAVIGATION COMPANY
UNION PACIFIC RAILROAD COMPANY

By *J.P. Rogers*
General Manager

UNION COUNTY

By *Paul R. [Signature]*
County Judge

ATTEST: (Seal)

By *Donald Schubert*
County Commissioner

County Clerk

By *Ralph Robinson*
County Commissioner

(attach resolution)

EXHIBIT "B"

Parcel 1

An irregular strip of land situate in the north half of Section 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, being all that part of the right of way of the Oregon-Washington Railroad & Navigation Company, bounded and described as follows:

Beginning at a point in the southerly right of way line of said Railroad Company that is 100.0 feet distant southwesterly from the center line of the main track of said Railroad Company as now constructed and operated, measured along a straight line drawn radially to said center line from Railroad Survey Station 865+80, which is a point in said center line that is 3222.5 feet distant northwesterly from the east line of the southwest quarter of the northeast quarter of said Section 31, measured along said center line of main track; thence southeasterly along a straight line, a distance of 273 feet, more or less, to a point 50.0 feet distant southwesterly, measured radially, from Railroad Survey Station 868+35 in said center line; thence southeasterly along a line parallel with and 50.0 feet southwesterly, measured at right angles and/or radially, from said center line of main track, a distance of 2260 feet, more or less, to a point opposite Railroad Survey Station 890+82 in said center line; thence southeasterly along a straight line, a distance of 260.8 feet, more or less, to a point in the southerly right of way line of said Railroad Company that is 100.0 feet distant southwesterly, measured at right angles, from Railroad Survey Station 893+38 in said center line; thence northwesterly along said southerly right of way line which is parallel with and 100.0 feet southwesterly, measured at right angles and/or radially, from said center line of main track, a distance of 2800 feet, more or less, to the point of beginning.

Parcel 2

An irregular strip of land situate in the south half of the northeast quarter of Section 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, being all that part of the right of way of the Oregon-Washington Railroad & Navigation Company, bounded and described as follows:

Beginning at a point in the southerly right of way line of said Railroad Company that is 100.0 feet distant southwesterly from said center line of main track, measured along a straight line drawn at right angles to said center line from Railroad Survey Station 894+75 in said center line; thence southeasterly along a straight line, a distance of 314 feet, more or less, to a point 50.0 feet distant southwesterly, measured at right angles, from Railroad Survey Station 897+85 in said center line; thence southeasterly along a straight line parallel with and 50.0 feet southwesterly, measured at right angles, from said center line of main track, 905.6 feet to a point opposite Railroad Survey Station 906+90.6 in said center line; thence southwesterly at right angles, 50.0 feet to a point in said southerly right of way line; thence northwesterly along said southerly right of way line which is a straight line parallel with and 100.0 feet southwesterly, measured at right angles, from said center line of main track, 1215.6 feet to the point of beginning.

Parcel 3

An irregular strip of land situate in the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of Section 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, said strip extending southeasterly from the southeasterly boundary line of Parcel 2 and from a line parallel with and 50.0 feet distant southwesterly, measured at right angles, from the center line of the main track of the Oregon-Washington Railroad & Navigation Company, to the westerly line of Parcel 4 and the southerly right of way line of said Railroad Company, said strip being all that part of the right of way of the Oregon-Washington Railroad & Navigation Company lying between lines parallel with and 30.0 feet distant on each side of the following described center line and said center line extended:

Beginning at a point 50.0 feet southwesterly from said center line of main track, measured along a straight line drawn at right angles to said center line from Railroad Survey Station 906+90.6 thereon; thence South 13° 30' 48" East, 498.0 feet; thence South 43° 46' East, 100 feet, more or less, to a point in the southerly right of way line of said Railroad Company.

Parcel 4

A strip of land situate in the southeast quarter of the northeast quarter and in the northeast quarter of the southeast quarter of Section 31, Township 2 South, Range 37 East of the Willamette Meridian, in Union County, Oregon, said strip extending southerly from the northerly right of way line of the Oregon-Washington Railroad & Navigation Company which is parallel with and 100.0 feet distant northeasterly, measured at right angles and/or radially, from the center line of the main track of said Railroad Company as now constructed and operated to the southerly right of way line of said Railroad Company which is 50.0 feet distant southeasterly, measured radially, from the center line of the former east leg of the wye track (now relocated) of said Railroad Company, said strip being 30.0 feet in width, measured at right angles and/or radially, on each side of the following-described center line of roadway, to wit:

Beginning at Railroad Survey Station 908+57.0, which is a point in said center line of main track that is 1054.5 feet distant southeasterly from the west line of said southeast quarter of the northeast quarter of Section 31, measured along said center line of main track; thence North $4^{\circ} 05'$ East along a straight line forming an angle of $61^{\circ} 00'$ from northwest to north with the center line of the northwesterly tangent of said main track produced southeasterly, a distance of 59.3 feet; thence northwesterly along a line curving to the left, having a radius of 260.44 feet and which is tangent at its point of beginning to the last described course, a distance of 255.4 feet to a point beyond the northerly right of way line of said Railroad Company;

ALSO, beginning at said Railroad Survey Station 908+57.0; thence South $4^{\circ} 05'$ West along a straight line forming an angle of $61^{\circ} 00'$ from southeast to south with said center line of northwesterly tangent of main line produced southeasterly, a distance of 85.3 feet; thence southerly along a line curving to the left, having a radius of 260.44 feet and which is tangent at its point of beginning to the last described course, a distance of 47.2 feet; thence South $6^{\circ} 17'$ East, a distance of 310.7 feet; thence southerly along a line curving to the right, having a radius of 260.44 feet and which is tangent at its point of beginning to the last described course, a distance of 100.0 feet to a point beyond the southerly right of way line of said Railroad Company.

EXHIBIT "C"

WORK THAT MAY BE REQUIRED TO BE DONE BY UNION PACIFIC RAILROAD COMPANY AT EXPENSE OF UNION COUNTY IN CONNECTION WITH COUNTY ROAD CONSTRUCTION FROM MILEPOST 281.66 TO MILEPOST 282.53 AT HILGARD, OREGON AND ESTIMATES OF COSTS THEREOF.

Flagging and other protective services and devices will be provided by the Railroad at Second Party's expense, to protect the Railroad facilities, property and operations. In general, the Railroad will furnish such flagging or other protective services and devices:

First. For any excavation below elevation of track subgrade, if in the opinion of the Railroad's representative, track or other railroad facilities may be subject to settlement or movement;

Second. During any clearing, grubbing, grading or blasting in proximity of the railroad facilities, which in the opinion of the Railroad's representative, may endanger or interfere with railroad facilities or operations;

Third: When any of Second Party's operations are carried on within or near railroad right of way and in the opinion of the Railroad's representative, could endanger railroad facilities or create hazard to railroad operations.

Information as to the Railroad's employees which may be required to provide protection to railroad facilities is as follows:

<u>Number</u> (a)	<u>Classification</u> (b)	<u>Base Pay</u> (c)	<u>Headquarters</u> (d)
4	Section Laborers	\$ 5.41 per Hr.	Hilgard, Oregon
2	Section Foremen	\$1137.03 per Mo.	Hilgard, Oregon

(a) A full flagging crew generally consists of three men. Under certain conditions, more than three men may be required or a lesser number may be sufficient; however, additional personnel, such as Communications Lineman and/or Signaller, may be used to protect communications and signal facilities, if deemed necessary by the Railroad.

(b) The classification is shown solely for information, and there is no guarantee that the above classes of labor will actually be used or that the rates of pay shown in column (c) will be those in effect at the time the work is undertaken.

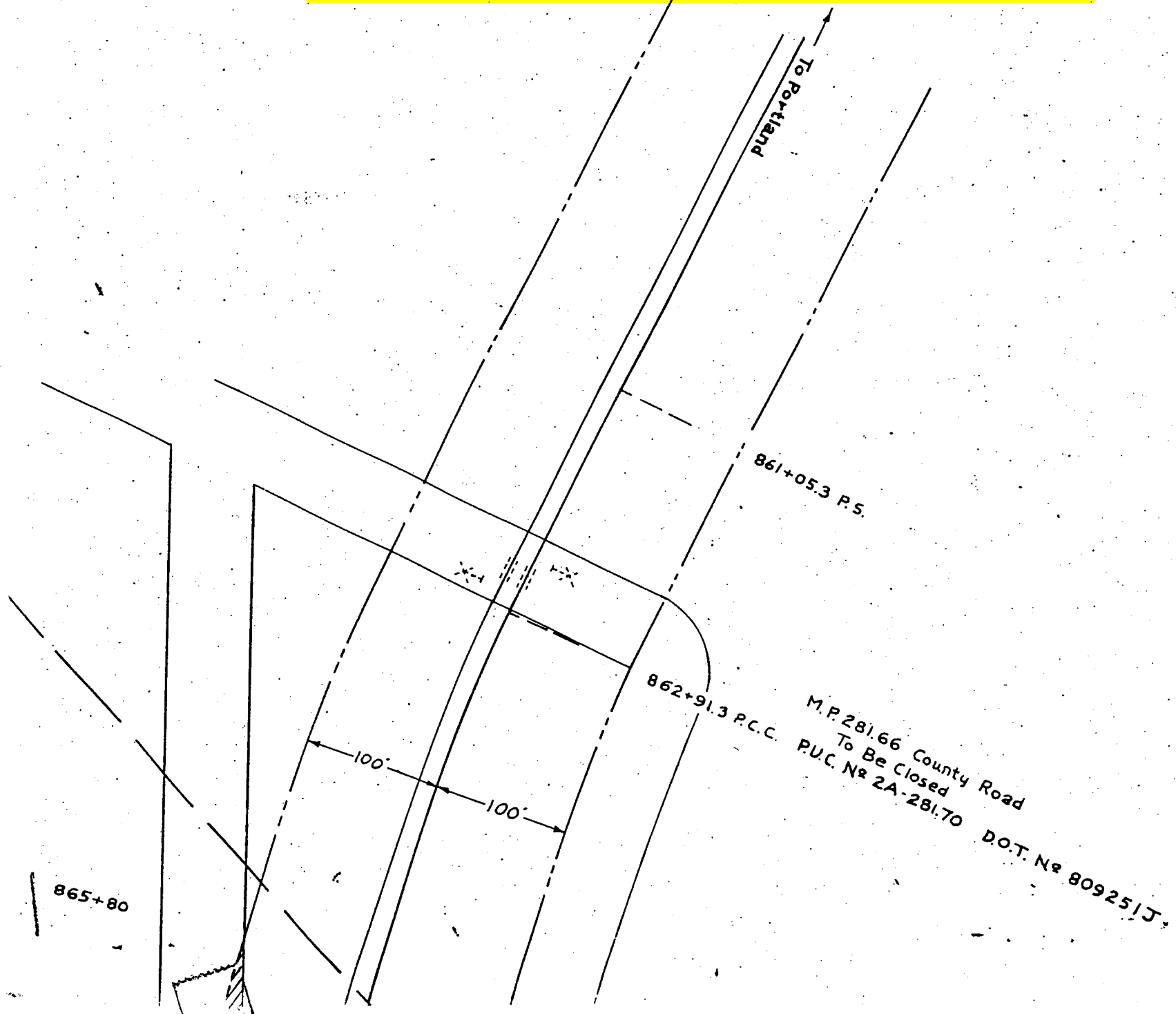
(c) Shows base pay for normal eight-hour shift in effect JANUARY 1, 1976. Normal overtime rate is one and one-half times base rate.

- (d) In addition, protective devices, such as crossing signals, indicators, telltales, lights, telephone, etc., may be required.

To all direct labor cost, there shall be additional charges for Vacation Allowances; Paid Holidays; Health and Welfare, Railroad Retirement and Unemployment Taxes; Public Liability, Property Damage and Workmen's Compensation insurance; and accounting and billing. For estimating purposes only, these additives collectively may be considered as approximately 40% of direct labor costs.

The determination of the cost of flagging and protective services and devices to be used as a basis for submitting of bids shall be the responsibility of the Second Party or its prospective bidders.

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To Portland

861+05.3 P.S.

862+91.3 P.C.C.

M.P. 281.66 County Road
To Be Closed
P.U.C. No 2A-281.70

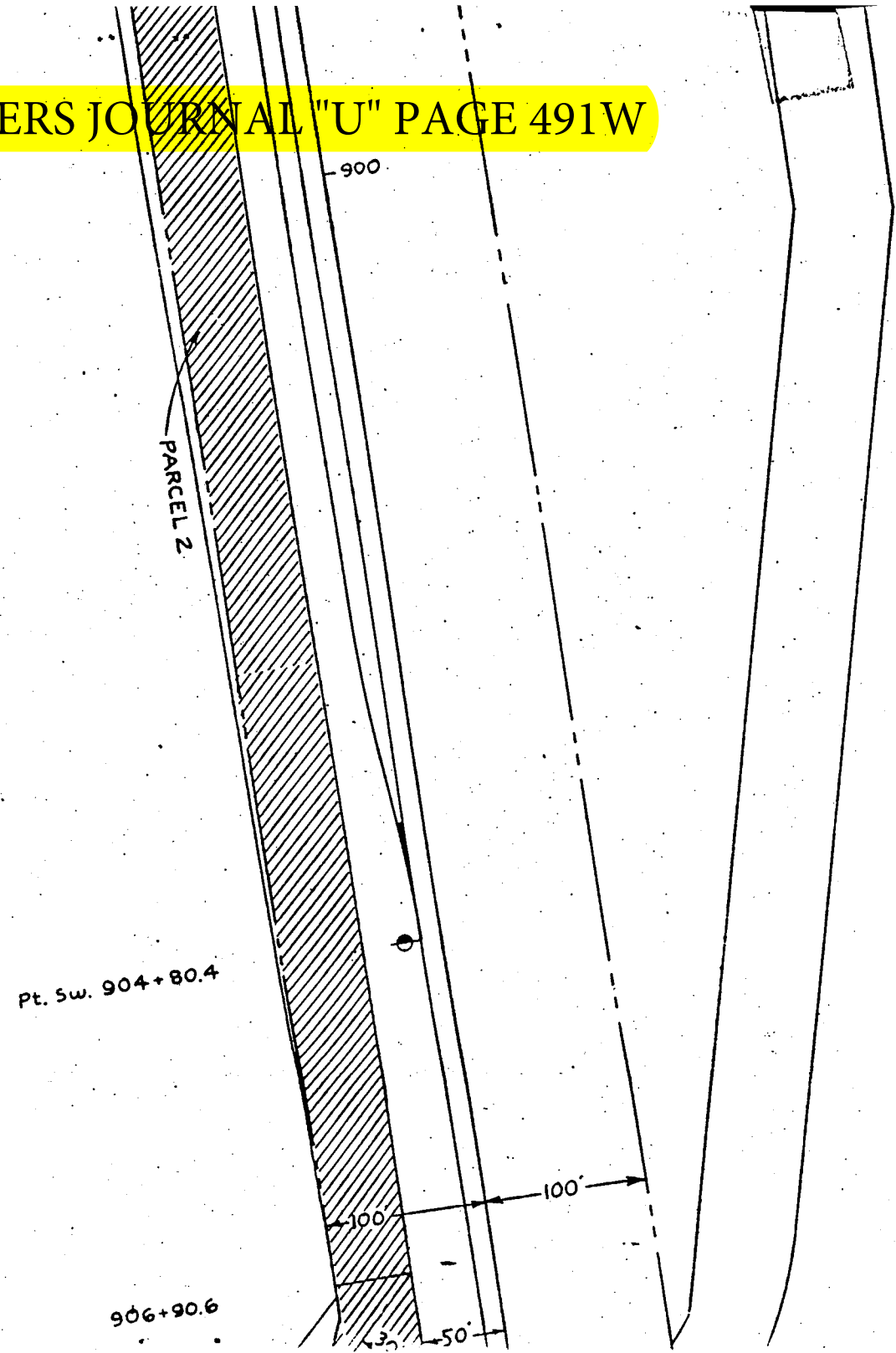
D.O.T. No 809251J

100'

100'

865+80

COMMISSIONERS JOURNAL "U" PAGE 491W



COMMISSIONERS JOURNAL "U" PAGE 491X

890+82

893+38

894+75

897+85

R.R. R/W

R.R. R/W

50'

50'



COMMISSIONERS JOURNAL "U" PAGE 491Y

PARCEL 11

WARD

STREET

P.U.C. No 2A-282.10 D.O.T. No 809252R
M.P. 282.10 County Road
To Be Closed (Formerly P.U.C. No 2A-282.20)

STAPLES ST.

50'

Pt. Sw. 889+95.4

890

COMMISSIONERS JOURNAL "U" PAGE 491Z

875+24.3 P.T.

4

5

COTTAGE ST.

880

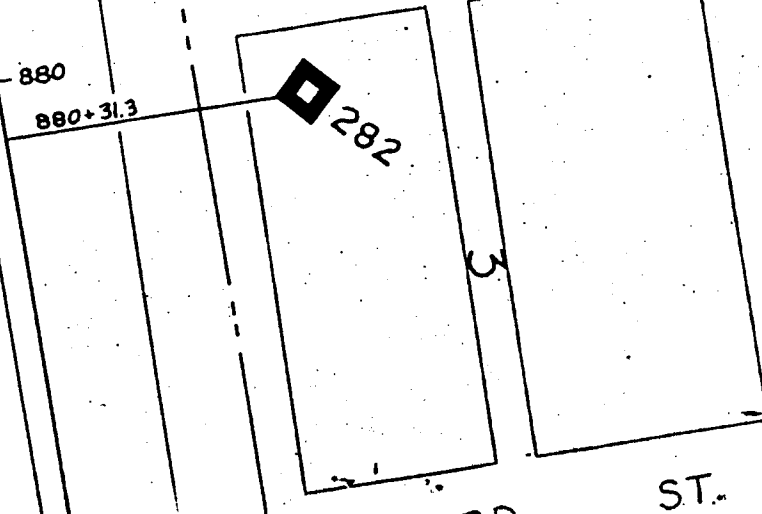
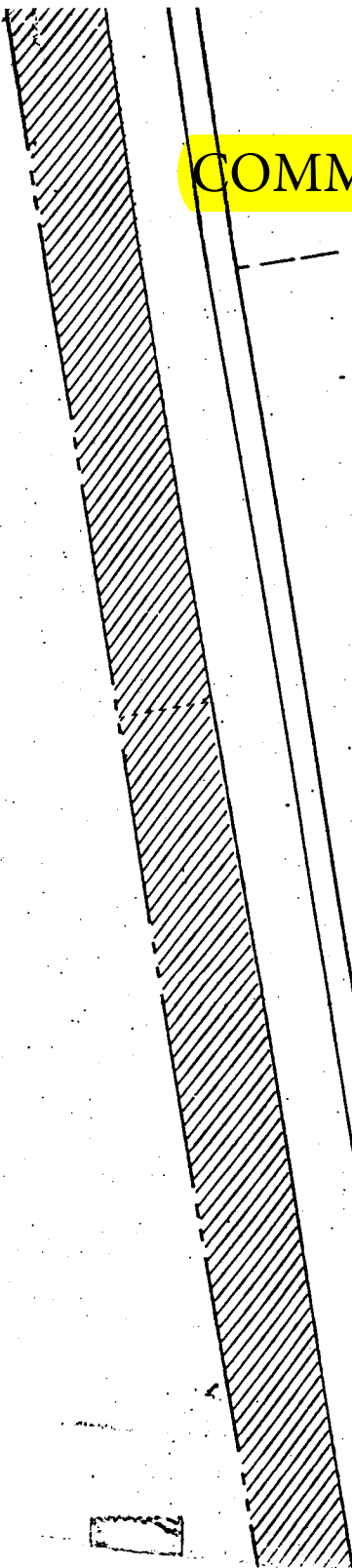
880+31.3

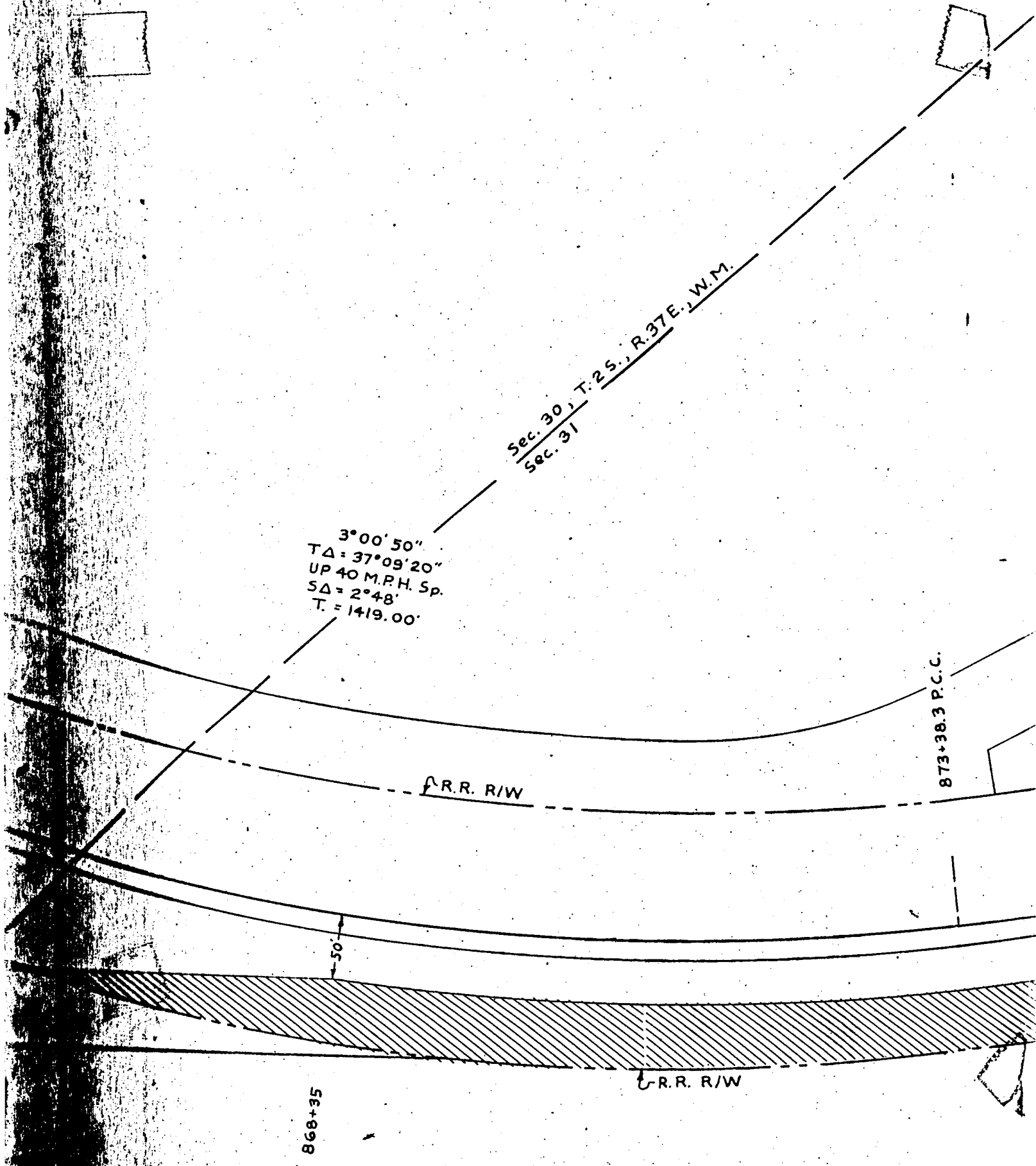
282

3

HARRISON

ST.





Sec. 30, T. 25., R. 37 E., W.M.
Sec. 31

3°00'50"
TΔ = 37°09'20"
UP 40 M.P.H. Sp.
SΔ = 2°48'
T = 1419.00'

R.R. R/W

873+38.3 P.C.C.

50'

868+35

R.R. R/W

P.U.C. No 2A-284-27
P.C. No 809253X
D.O.T. No 2-40 PIK. Rd Xing.
MP 282.53 2-40 PIK. w/Gates
Fl. Xing Sigs. w/Gates

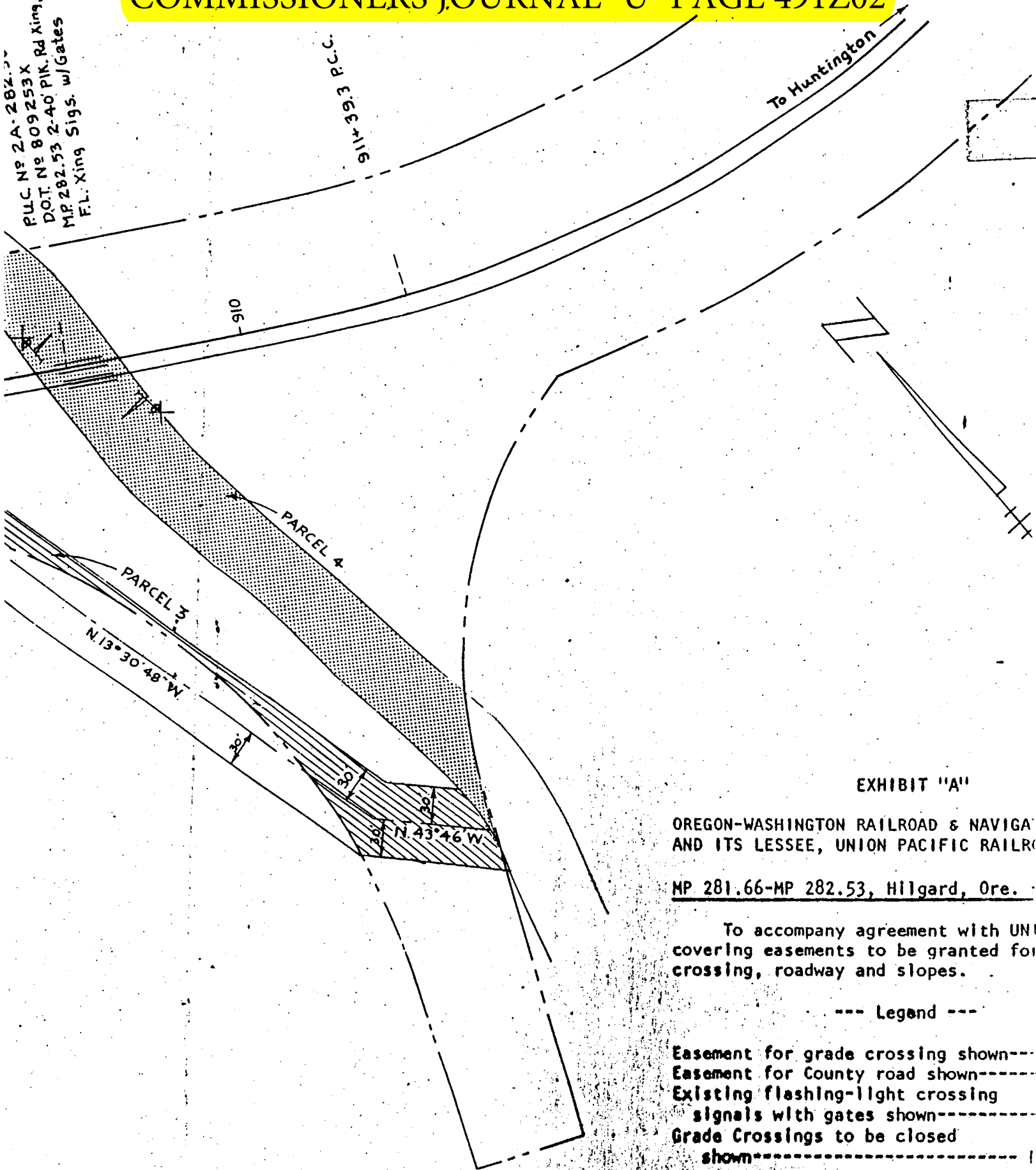


EXHIBIT "A"

OREGON-WASHINGTON RAILROAD & NAVIGATION
AND ITS LESSEE, UNION PACIFIC RAILROAD
MP 281.66-MP 282.53, Hilgard, Ore.

To accompany agreement with UNP
covering easements to be granted for
crossing, roadway and slopes.

--- Legend ---

- Easement for grade crossing shown-----
- Easement for County road shown-----
- Existing flashing-light crossing
signals with gates shown-----
- Grade Crossings to be closed
shown-----

Office of Div. Engr.
Scale: 1" = 100'

All
Mar

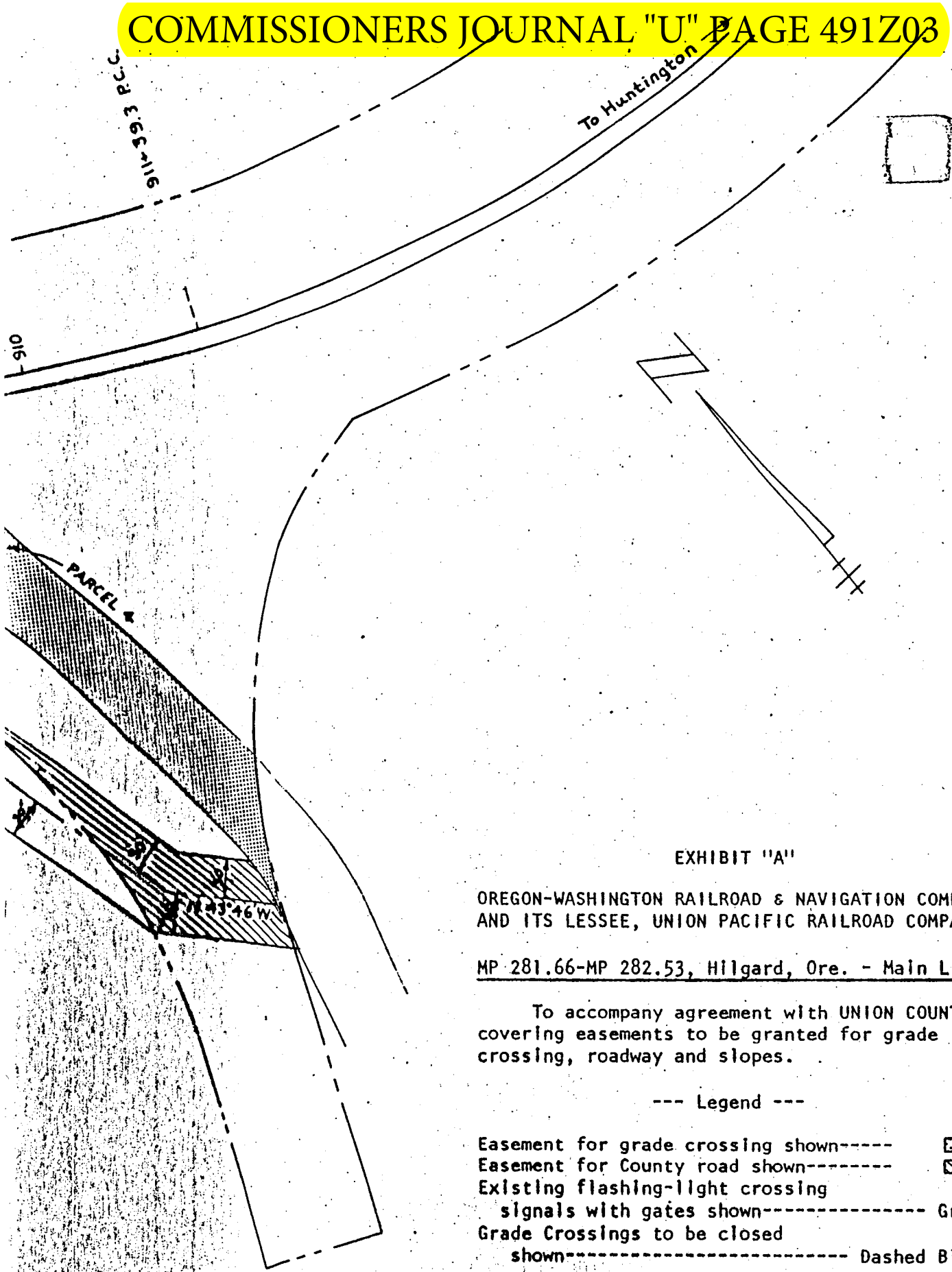




EXHIBIT "A"

OREGON-WASHINGTON RAILROAD & NAVIGATION COMPANY
AND ITS LESSEE, UNION PACIFIC RAILROAD COMPANY

MP 281.66-MP 282.53, Hilgard, Ore. - Main Line

To accompany agreement with UNION COUNTY
covering easements to be granted for grade
crossing, roadway and slopes.

--- Legend ---

- Easement for grade crossing shown----- 
- Easement for County road shown----- 
- Existing flashing-light crossing
signals with gates shown----- Green
- Grade Crossings to be closed
shown----- Dashed Black

Office of Div. Engr.
Scale: 1" = 100'

Albina, Oregon
March 10, 1976