

EASEMENT

THIS INDENTURE MADE THIS 25TH DAY OF MARCH, 1952, BY AND BETWEEN FERGUS DAIRY CO-OP, A CORPORATION, PARTY OF THE FIRST PART, AND THE CITY OF FERGUS FALLS, A MUNICIPAL CORPORATION UNDER THE LAWS OF THE STATE OF MINNESOTA, PARTY OF THE SECOND PART.

WHEREAS, THE PARTY OF THE FIRST PART IS THE OWNER IN FEE SIMPLE, FREE FROM ENCUMBRANCES, OF LAND OVER, UNDER AND ACROSS WHICH PARTY OF THE SECOND PART DESIRES TO BUILD, CONSTRUCT, AND MAINTAIN A STORM SEWER, PIPE LINE AS HEREINAFTER SET FORTH AND DESCRIBED, AND

WHEREAS, THE PARTY OF THE FIRST PART HAS AGREED, IN CONSIDERATION OF THE SUM OF \$1.00, TO BE PAID THEM BY PARTY OF THE SECOND PART, TO GRANT TO PARTY OF THE SECOND PART AN EASEMENT FOR THE PURPOSE AND IN THE MANNER HEREINAFTER EXPRESSED.

NOW, THEREFORE, THIS INDENTURE WITNESSETH THAT IN PURSUANCE OF SAID AGREEMENT AND IN CONSIDERATION OF THE SUM OF \$1.00 PAID BY THE PARTY OF THE SECOND PART TO THE PARTY OF THE FIRST PART, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTY OF THE FIRST PART HEREBY GRANTS UNTO THE PARTY OF THE SECOND PART, ITS SUCCESSORS AND ASSIGNS, THE PERMANENT AND PERPETUAL EASEMENT, RIGHT AND PRIVILEGE OF BUILDING AND CONSTRUCTING, MAINTAINING, LAYING, RELAYING, REPAIRING, CHANGING OR IN ANY MANNER ALTERING A PIPE LINE OF A KIND, SIZE AND NATURE TO BE DETERMINED BY THE PARTY OF THE SECOND PART, AND AT SUCH DEPTH OR DEPTHS AS MAY BE DEEMED NECESSARY BY THE PARTY OF THE SECOND PART ACROSS THE FOLLOWING DESCRIBED PROPERTY, TO-WIT:

A STRIP OF LAND TEN (10') IN WIDTH LYING FIVE FEET (5') ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY, WHICH IS 382 FEET EASTERLY, MEASURED ALONG THE SOUTH LINE OF THE NORTHERN PACIFIC RAILROAD RIGHT-OF-WAY, FROM THE INTERSECTION OF SAID RIGHT-OF-WAY LINE AND THE EAST LINE OF BUSE STREET, THENCE S32° 04' E 100 FEET MORE OR LESS TO THE OTTER TAIL RIVER.

IN PURSUANCE OF SAID AGREEMENT AND IN CONSIDERATION OF THE CONSIDERATION HEREINBEFORE EXPRESSED, PARTY OF THE FIRST PART DOES ALSO HEREBY GRANT, GIVE AND CONVEY UNTO THE PARTIES OF THE SECOND PART, ITS SUCCESSORS OR ASSIGNS THE RIGHT AND PRIVILEGE OF INGRESS AND EGRESS TO AND FROM SAID PREMISES AND ANY PORTION THEREOF FOR ANY OF THE PURPOSES ABOVE STATED.

DURING THE COURSE OF CONSTRUCTION THE PARTY OF THE SECOND PART SHALL HAVE TEMPORARY EASEMENT ON A STRIP OF LAND 30 FEET IN WIDTH, 20 FEET THEREOF LYING SOUTHERLY AND WESTERLY AND IMMEDIATELY ADJACENT TO SAID CENTER LINE AND 10 FEET THEREOF LYING NORTHERLY AND EASTERLY AND IMMEDIATELY ADJACENT TO SAID CENTERLINE.

THE PARTY OF THE SECOND PART SHALL REPLACE ALL EARTH FROM TRENCH EXCAVATIONS IN ITS ORIGINAL POSITION, AS FAR AS PRACTICAL. ALL SURPLUS DIRT SHALL BE PLACED IN A WINDROW OVER SEWER TRENCH. IN THE

EVENT THAT IT BECOMES NECESSARY TO MOVE A BUILDING FOR THE PURPOSE OF INSTALLING OR MAINTAINING SAID STORM SEWER PIPING, THE PARTY OF THE SECOND PART SHALL BE PERMITTED TO MOVE SAID BUILDING, PROVIDED THAT THE BUILDING IS RESTORED TO ITS ORIGINAL CONDITION AND LOCATION.

IN WITNESS WHEREOF THE PARTIES OF THE FIRST PART HAVE HEREUNTO PLACED THEIR HANDS AND SIGNATURES THE DAY AND YEAR FIRST ABOVE WRITTEN.

IN THE PRESENCE OF:

W. J. ...
...

Norm ...
...
PRESIDENT
SECRETARY

STATE OF MINNESOTA)
COUNTY OF OTTER TAIL) 99

ON THIS 25 DAY OF May, 1952, BEFORE ME, A NOTARY PUBLIC WITHIN AND FOR SAID COUNTY, PERSONALLY APPEARED

Merrill ... AND *Carl ...*
I ME PERSONALLY KNOWN, WHO, BEING EACH BY ME DULY SWORN THEY DID SAY THAT THEY ARE RESPECTFULLY THE PRESIDENT AND THE SECRETARY OF THE CORPORATION NAMED IN THE FOREGOING INSTRUMENT AND THAT THE SEAL AFFIXED TO SAID INSTRUMENT IS THE CORPORATE SEAL OF SAID CORPORATION, AND THAT SAID INSTRUMENT WAS SIGNED AND SEALED IN BEHALF OF SAID CORPORATION BY AUTHORITY OF ITS BOARD OF DIRECTORS AND SAID CORPORATION, AND THAT SAID CORPORATION ACKNOWLEDGED SAID INSTRUMENT TO BE THE FREE ACT AND DEED OF SAID CORPORATION.



W. J. ...
NOTARY PUBLIC OTTER TAIL COUNTY, MINN.
MY COMMISSION EXPIRES ...
V. O. K. SWENSON
Notary Public, Otter Tail County, Minn.
My Commission Expires May 16, 1958.

SEPTEMBER 26, 1951

NORTHERN PACIFIC RAILWAY COMPANY
FERGUS FALLS, MINNESOTA

RE: CITY PROJECT #150
STORM SEWER

GENTLEMEN:

THE CITY OF FERGUS FALLS IS PLANNING TO CONSTRUCT A STORM SEWER ON BUSE STREET WHICH WOULD PASS UNDER THE NORTHERN PACIFIC TRACKS NEAR THE FERGUS DAIRY Co-Op, AND ENTER THE RIVER AS SHOWN ON THE ATTACHED PLAN. THIS PLAN REQUIRES AN INSTALLATION ON RAILROAD RIGHT-OF-WAY AND FERGUS DAIRY Co-Op PROPERTY.

WE ARE HEREWITH SUBMITTING AN EASEMENT AND CLAIM TO BE SIGNED BY THE PROPER OFFICIALS OF YOUR COMPANY, ALONG WITH A DETAILED PLAN SHOWING PROFILE AND ALIGNMENT. UPON EXECUTION OF THE EASEMENT, PLEASE RETURN THE ORIGINAL AND TWO COPIES ALONG WITH THE NOTARIZED CLAIM FOR \$1.00. IF POSSIBLE AT THIS TIME WE WOULD ALSO LIKE PERMISSION BY LETTER FOR CROSSING UNDER YOUR TRACKS ON BUSE STREET. AS A MATTER OF INFORMATION THIS PROPOSED PLAN IS SATISFACTORY TO THE FERGUS DAIRY Co-Op AND THEY HAVE ALREADY SIGNED THEIR EASEMENT.

THIS STORM SEWER WOULD BE INSTALLED NEXT YEAR, PROVIDED THAT ALL NECESSARY PAPERS ARE IN ORDER AND THAT SUFFICIENT FUNDS ARE LEVIED THIS FALL BY THE COUNCIL.

THANKING YOU, I REMAIN

VERY TRULY YOURS,

E. F. HENSCH
CITY ENGINEER

EFH:EGL
ENCL.

No. 74359

Northern Pacific Railway Company, hereinafter called the first party, hereby permits
CITY OF PERGUS FALLS, a municipal corporation of the State of Minnesota,

hereinafter called the second party, to construct, operate and

maintain upon its right of way in the City of Pergus Falls, Minnesota, a 24 inch storm

sewer along the course described as follows:

Crossing the first party's Pergus Falls Branch right of way in Buse Street along a line parallel with and distant 7 feet westerly, measured at right angles, from the center line of said street from the northerly line of said right of way to a point distant 43 feet southerly, measured at right angles, from the center line of said track as now constructed; thence easterly parallel with said track center line 407 feet; thence southerly 10 feet, more or less, to the southerly line of said right of way where it leaves said right of way.

This permission is granted upon the following terms:

1. ~~The second party will pay a rental of _____ in advance for the full term hereof also all taxes and assessments that may be levied or assessed against the improvements.~~
2. The entire cost shall be borne by the second party; the division superintendent of the first party will decide what portion if any of the work will be done by the first party, and for such portion the second party will pay the first party the estimated cost before the work is done; if the actual cost exceeds the estimate, the second party will pay the additional amount when called upon; if the actual cost is less than the estimate, the first party will repay the surplus. All work hereunder by the second party shall be done in a first-class workmanlike manner to the satisfaction of the division superintendent of the first party, and in accordance with plans and specifications which he may prescribe or approve. The division superintendent of the first party shall have the right at any time when in his judgment it becomes necessary or advisable, to require any material used in the work to be replaced with like material or with material of a more permanent character; also to require additional work or changes of location as a matter of safety, or of appearance, or on account of additional tracks being laid, change of grade, or for any other reason connected with the operation of the railroad of the first party; all of which shall be done at the expense of the second party in the manner herein provided.
3. The second party agrees that the improvements shall not at any time damage the railroad or structures of the first party, or be a menace to the safety of its operation; and to indemnify and save harmless the first party from all loss and damage to its tracks, roadbed, structures, rolling stock and other property of the first party and property of third persons, and from injuries to persons occasioned by the improvements.
4. It is agreed that the provisions of Section 3 are for the equal protection of any other railroad company or companies heretofore or hereafter granted the joint use of the first party's property of which the premises upon which said improvements are located are a part.
5. This permit cannot be transferred or assigned by the second party without the written consent of the first party.
6. If the second party shall at any time cease to maintain and operate the said pipe line or shall fail faithfully to perform every agreement of this instrument, the first party may forthwith terminate this permit and may forthwith expel the second party from its premises; and at the end of the permit the second party will restore the premises of the first party to their former state.

7. Said pipe line shall be constructed and maintained in accordance with the specifications hereto attached, marked Exhibit A and made a part hereof.



Attest:

~~Witness to signature of Second Party:~~

John Mitchell

CITY CLERK
CITY OF PERGUS FALLS

Northern Pacific Railway Company,

By *A. Johnson*
Industrial Agent

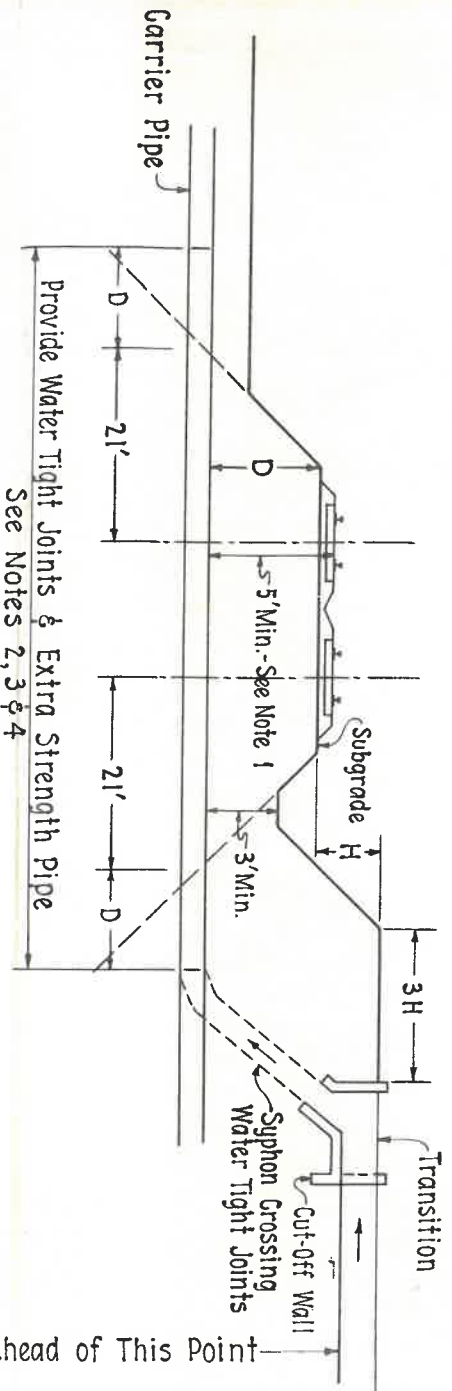
IN WITNESS WHEREOF the parties have executed these presents this 16th day of October 19 51.

CITY OF PERGUS FALLS
By *Earl Santved*
MAYOR

EXHIBIT "A"

Specifications
for Sewer, Irrigation and Drain Line Crossings
under Railway Tracks.

1. Sewer, irrigation or drain lines passing under railway tracks shall be placed with top of pipe not less than five feet below base of rail; and top of pipe not less than three feet below bottom of roadway ditch.
2. Pipe, within 21 feet plus the depth of pipe, shall conform with one of the following:
 - Cast Iron Pipe -- Extra Heavy, ASTM A-142-38.
 - Concrete Pipe - ASTM C-76-41, Table II. Circular reinforcement in circular pipe.
 - Corrugated Metal Pipe -- Gauge and coating subject to review by Railway Company.
 Other pipe material may be used on special approval of the Railway Company.
3. For a distance of not less than 21 feet plus the depth of pipe each side of the center line of track crossings, the joints in the pipe line shall be provided with suitable jointing material to make a water-tight connection and of such material that these joints will remain tight under roadbed loads and impact.
4. Irrigation pipe line crossings and syphons shall be provided throughout their length with water-tight joints capable of resisting the hydrostatic pressure under which they are to operate. Either lock joint, copper strip, or rubber band type of standard make will be satisfactory for concrete pipe syphon. Plans for syphons which are to operate at greater than a pressure of ten pounds per square inch shall be subject to special review by Railway Engineering Department.
5. Under certain conditions the Railway Company may require the use of an encasement pipe around the carrier pipe.
6. Where warranted by special local conditions the Railway Company may require an emergency by-pass or waste-way within effective distance of the crossing.
7. Where laws, codes, or orders of competent public authority prescribe a higher degree of protection than specified herein, then the higher degree of protection so prescribed shall be deemed a part of the specifications set forth in this Exhibit.



TYPICAL SKETCH OF PIPE LINE CROSSING
FOR
SEWER, DRAIN, OR IRRIGATION LINES

Office of Chief Engineer
St. Paul, Minnesota
April 24, 1950