



Washington State
Department of Transportation

Access Connection Permit

Permit No. 15921

CS 2938 SR 9
District No. 1

Name and Address of Applicant:

Michael F. Kerwick
1750 Lakeview Blvd.
Mt. Vernon, WA 98273

9503200058

The Applicant, hereinafter referred to as the "Grantee," having applied for a permit to construct, maintain and use a nonconforming Type "C" 20-foot "Category I" access connection centered west of and opposite approximate Milepost 46.62 located in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 36, Township 34 North, Range 4 East, W.M.

on a portion of State Route No. 9 in Skagit County, Washington, the Washington State Department of Transportation or its designee, hereinafter referred to as the "Department," hereby orders that this permit be granted, subject to the terms and provisions stated upon the reverse hereof and Exhibits attached hereto and by this reference made a part hereof:

Exhibit "A" — Special Provisions for Highway Encroachments, Pages 1-3

EXHIBIT "B." Right-of-way plans entitled "SR 9, Montborne North," page 1

EXHIBIT "C." Agreement to Construct and Maintain Roadway, and to Grant and Maintain Easements for Ingress and Egress, pages 1-5

The location of the facility described above is further illustrated on the attached map designated Exhibit "B," page 1

This permit shall be void unless the construction herein contemplated is started within 90 days of issuance and completed within 120 days of issuance, unless otherwise provided herein.

This permit is accepted and approved by the Grantee subject to the terms and provisions as herein set forth.

GRANTEE

By: Michael F. Kerwick

Title: APPLICANT

Date: NOV 22 1993

DEPARTMENT OF TRANSPORTATION

By: Harmon J. Johnson

Title: UTILITIES/DEVELOPER SERVICES ENGINEER

Date of Issuance: 12-1-93

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BK 1423PGU453

General Provisions

1. The Grantee, its successors and assigns, agrees to protect the State of Washington, its officers and employees and save them harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the acts or omissions of the Grantee, its assigns, agents, contractors, licensees, employees or any person whomsoever, in connection with Grantee's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this permit. In case any suit or action is brought against the State of Washington, its officers and employees, arising out of or by reason of any of the above causes, the Grantee, its successors or assigns will, upon notice of such action, defend the same at its sole cost and expense and satisfy any judgement against the State of Washington, its officers, or employees: PROVIDED, that if the claims or damages are caused by or result from the concurrent negligence of (a) the State of Washington's agents or employees and (b) the Grantee or Grantee's agents or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee or the Grantee's agents or employees.

The Grantee, and on behalf of its assigns, agents, licensees, contractors and employees agrees to waive any claims for losses, expenses, damages or lost revenues incurred by it or its agents, contractors, licensees, employees or customers in connection with Grantee's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this permit against the State of Washington, its agents or employees except the reasonable costs of repair to property resulting from the negligent injury or damage to Grantee's property by the State of Washington, its agents, contractors or employees.
2. During the progress of the work, such barriers shall be erected and maintained as may be necessary or as may be directed for the protection of the traveling public; the barriers shall be properly lighted at night.
3. Except as herein authorized, no excavation shall be made or obstacle placed within the limits of the State highway in such a manner as to interfere with the travel over said road.
4. If the work done under this permit interferes in any way with the drainage of the State highway, the Grantee shall wholly and at its own expense make such provision as the Department may direct to take care of said drainage.
5. On completion of said work herein contemplated, all rubbish and debris shall be immediately removed and the roadway and roadside shall be left neat and presentable and satisfactory to the Department.
6. The cost of construction or modification of a connection shall be the responsibility of the Grantee, including the cost of modification of any connection required as a result of changes in property site use in accordance with WAC 468-51-110.
7. The Department hereby reserves the right to order the change of location or the removal of any structure or structures authorized by this permit at any time, said change or removal to be made at the sole expense of the party or parties to whom this permit is issued, or their successors and assigns.
8. Existing permitted connections impacted by the Department's work program and which, in the consideration of the Department, necessitate modification, relocation, or replacement in order to meet current Department connection location, quantity, spacing, and design standards, shall be modified, relocated, or replaced in kind by the Department at no cost to the Grantee. The cost of further enhancements or modification to the altered, relocated, or replaced connections desired by the Grantee shall be the responsibility of the Grantee.
9. If any changes are made or proposed in the land use, intensity of development, type of traffic, or traffic flow of the property served by this connection permit, the grantee is required to contact the Department to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection.
10. All such changes, reconstruction, or relocation by the Grantee shall be done in such manner as will cause the least interference with any of the Department's work, and the Department shall in no wise be held liable for any damage to the Grantee by reason of any such work by the Department, its agents or representatives, or by the exercise of any rights by the Department upon roads, streets, public places, or structures in question.
11. This permit or privilege shall not be deemed or held to be an exclusive one and shall not prohibit the Department from granting other permits or franchise rights of like or other nature to other public or private companies or individuals, nor shall it prevent the Department from using any of its roads, streets, or public places, or affect its right to full supervision and control over all or any part of them, none of which is hereby surrendered.
12. The Department may revoke, amend, or cancel this permit or any of the provisions thereof at any time by giving written notice to the Grantee. The Grantee shall immediately remove all facilities from the right of way. Any facilities remaining upon the right of way 30 days after written notice of cancellation shall be removed by the Department at the expense of the Grantee.
13. It is the responsibility of the applicant or Grantee to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the Grantee to acquire any property rights necessary to provide continuity from the applicant's property to the Department's right-of-way if the Grantee's property does not abut the right of way.
14. The party or parties to whom this permit is issued shall maintain at its or their sole expense the structure or object for which this permit is granted in a condition satisfactory to the Department.
15. Any breach of any of the conditions and requirements herein made, or failure on the part of the Grantee of this permit to proceed with due diligence and in good faith after its acceptance, with construction work hereunder, shall subject this permit to cancellation as herein provided.
16. This permit is subject to all applicable provisions of 468-51 WAC, Chapter 47.50 RCW, Chapter 47.32 RCW, and/or Chapter 47.44 RCW and amendments thereto.



Washington State
Department of Transportation

Special Provisions for Highway Encroachments

Permit No. 15921

Applicable provisions are denoted by (X)

- ☒ 1. No work provided for herein shall be performed until the Grantee is authorized by the following Department representative:
Send correspondence to:
District Utilities Engineer
15700 Dayton Avenue North
PO Box 330310
Seattle, WA 98133-9710
For preconstruction conference call:
Mr. Wayne Starck, 428-1386 (Mt. Vernon)
- ☒ 2. Prior to the beginning of construction, a preconstruction conference shall be held at which the Department and the Grantee and Grantee's engineer, contractor, and inspector shall be present.
- ☒ 3. Should the Grantee choose to perform the work outlined herein with other than its own forces, a representative of the Grantee shall be present at all times unless otherwise agreed to by the District representative. All contact between the Department and the Grantee's contractor shall be through the representative of the Grantee. Where the Grantee chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Grantee within the State right of way until said requirement is met. The Grantee, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor, subcontractor, agent, and others, so as not to endanger or injure any person or property.
- ☒ 4. A copy of the permit must be on the job site and protected from the elements at all times during any of the construction authorized by said permit.
- ☒ 5. This permit does not give the Grantee or any agent or contractor of the Grantee any rights to cut, spray, retard, remove, destroy, damage, disfigure or in any way modify the physical condition of any vegetative material located on the highway right of way, except by written permission from the Department or for purposes as described by No. 6 if denoted below. All restoration shall be done to the satisfaction of the Department at the sole expense of the Grantee.
- ☒ 6. If necessary to increase sight distance, brush shall be removed from both sides of the access connection and stumps shall be removed. The indiscriminate cutting of merchantable timber or disfiguring of any feature of scenic value shall not be permitted.
- ☐ 7. The access connection(s) shall be constructed in accordance with the attached
Sufficient length of _____ -inch diameter culvert pipe shall be placed in ditch and laid to a true line and grade. The access connection(s) shall be surfaced to the limits as shown on the plan with a 6-inch minimum compacted depth of gravel base material and a 3-inch compacted depth of crushed surfacing top course. Asphalt paving will not be required. Finished grade of the access connection shall be in accordance with the profile control as shown on the attached plan. Directing of surface water from private property to Department right of way will not be permitted, unless otherwise approved by the Department.
- ☒ 8. The access connection(s) shall be constructed in accordance with the attached *exhibit*
~~Sufficient length of _____ -inch diameter culvert pipe shall be placed in ditch and laid to a true line and grade.~~ The access connection(s) shall be surfaced to the limits as shown on the plan with a 6-inch minimum compacted depth of gravel base material a 3-inch minimum compacted depth of crushed surfacing top course and paved with a 3-inch minimum compacted depth of Asphaltic Concrete Class B unless otherwise specified by the Department. Any existing oil mat on shoulder or roadway shall be removed and new pavement laid to a butt joint with existing pavement. Finished grade of new pavement shall be in accordance with the profile control as shown on attached plan. Directing of surface water from private property onto Department right of way will not be permitted, unless otherwise approved by the Department.
- ☐ 9. All buildings and appurtenances shall be so located at a distance from the right of way line of any State Highway that none of the right of way therefore is required for use of the patrons or customers of any such establishment. Grantee shall comply with local building codes. Set-back requirements for the location of buildings in relation to the right of way line are a function of local authorities, and they should be consulted regarding requirements that must be adhered to.

10. The Grantee agrees to schedule the work herein referred to and perform said work in such a manner as not to delay the Department's contractor in the performance of his contract.
11. Work within the right of way shall be restricted to between the hours of *9:00 A.M.* and *3:30 P.M.*, and no work shall be allowed on the right of way Saturday, Sunday, or holidays, unless authorized by the Department. Any lane closures must be submitted for approval in advance of use. The hours of permitted closure may differ from the above noted hours.
12. The shoulders, where disturbed, shall be surfaced with crushed surfacing top course *4* - inch minimum compacted depth, or as directed by the Department. The surface of the finished shoulder shall slope down from the edge of pavement at the rate of 1/2 inch per foot unless otherwise directed. The restored shoulder must not have any strips or sections less than 2 feet wide. The restored shoulder shall be surfaced with *class "B" asphalt or as directed.*
13. The Grantee shall be responsible for constructing and maintaining the access connection(s) and appurtenances between the shoulder line of the highway and the right of way line inclusive of surfacing and drainage. The Department has the right to inspect all installations at the time of construction and at any time afterward and to require that necessary changes and repairs be made. Unsatisfactory work will be corrected by the Department, at the Grantee's expense, or access may be removed at the Grantee's expense. Directing of surface water from private property onto Department right of way will not be permitted.
14. The access connection shall be sufficiently surfaced back an adequate distance from the edge of the pavement to prevent any tracking of material onto the highway. Any tracking of material onto the highway shall be subject to enforcement of Chapter 46.61.655 RCW and shall be immediately cleaned up by the Grantee or the Grantee's agent.
15. Standard highway warning signs designated as "Truck Crossing" sign, plate W11-6, shall be placed and maintained at Grantee's expense on each side of the access connection. Signs shall be in evidence only when access is actually being used. If necessary, flagmen shall be provided. Sufficient parking space shall be provided by the Grantee outside Department right of way so no vehicles will be parked on said right of way.
16. All manholes, valve covers, and like appurtenances shall be constructed at such an elevation to conform to the shoulder slope from the edge of pavement or as directed by the Department.
17. All slopes, slope treatment, top soil, ditches, pipes, etc., disturbed by this operation shall be restored to their original cross section and condition. All hazards shall be marked by warning signs, barricades, and lights. If necessary, flagmen shall be employed for the purpose of protecting the traveling public. Roadside operations shall be specified by the Department's representative.
18. During the construction and/or maintenance of this facility, the Grantee shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways. If determined necessary by the Department, the Grantee shall submit a signing and traffic control plan to the Department's representative for approval prior to construction or maintenance operations.
19. Bond coverage required to ensure proper compliance with all terms and conditions of said permit will be furnished by a Blanket Surety Bond held at Headquarters in Olympia.
20. A surety bond in the amount of \$ *1000.00* written by a surety company authorized to do business in the State of Washington, shall be furnished to ensure compliance with any and all of the terms and conditions of this permit and shall remain in force until all work under this permit has been completed and approved by the Department.
21. Relative to advertising adjacent to all State highways, we wish to call your attention to the Scenic Vistas Act of 1971, Chapter 47.42 RCW and State Transportation Commission ruling Chapter 468-66 WAC. Violation of this section of the statutes will be sufficient cause for cancellation of this permit. On-premise signs are allowed.
22. The Grantee shall notify the Department's representative upon completion of the work under this permit so that a final inspection can be made.
23. No lane closures shall be allowed except as approved by the Department representative. Approvals may cause revision of special provisions, including hours of operation.
24. The responsibility of the Grantee for proper performance, safe conduct, and adequate policing and supervision of the project shall not be lessened or otherwise affected by Department approval of plans, specifications, or work, or by the presence at the work site of Department representatives, or by compliance by the Grantee with any requests or recommendations made by such representatives.
25. All material and workmanship shall conform to the Washington State Department of Transportation *Standard Specifications for Road, Bridge and Municipal Construction*, current edition, and shall be subject to inspection by the Department.

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SPECIAL PROVISIONS FOR HIGHWAY ENCROACHMENTS

- x26. This permit is to be used for one single-family residences only. If a business access or access to more than one residences is desired at a later date, a permit for such access shall be obtained from this office.
- x27. The approaches shall be constructed as specified on the attached exhibits.
- x28. This access connection is to be shared with Permit 15955 and Permit 15956.
- x29. This permit is considered nonconforming because it does not meet the required spacing requirement of 660 feet to another public or private access for this section of highway.
- x30. Any existing access connections must be closed and removed.

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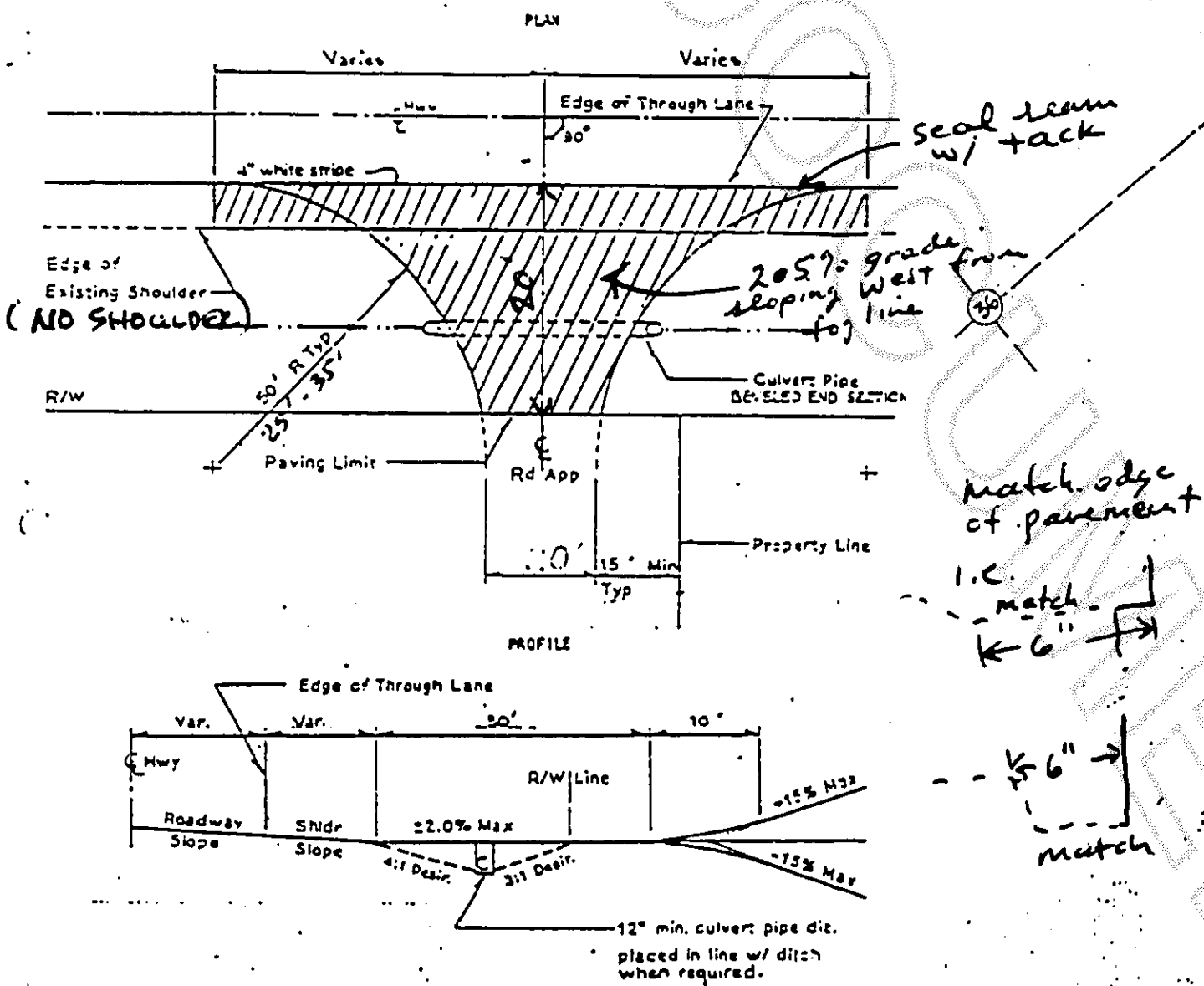
EXHIBIT "A"

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BK1423PG0457

PERMIT #15921

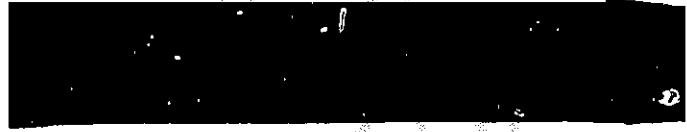
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TYPE "C" 20-FOOT "CATEGORY I" ACCESS CONNECTION



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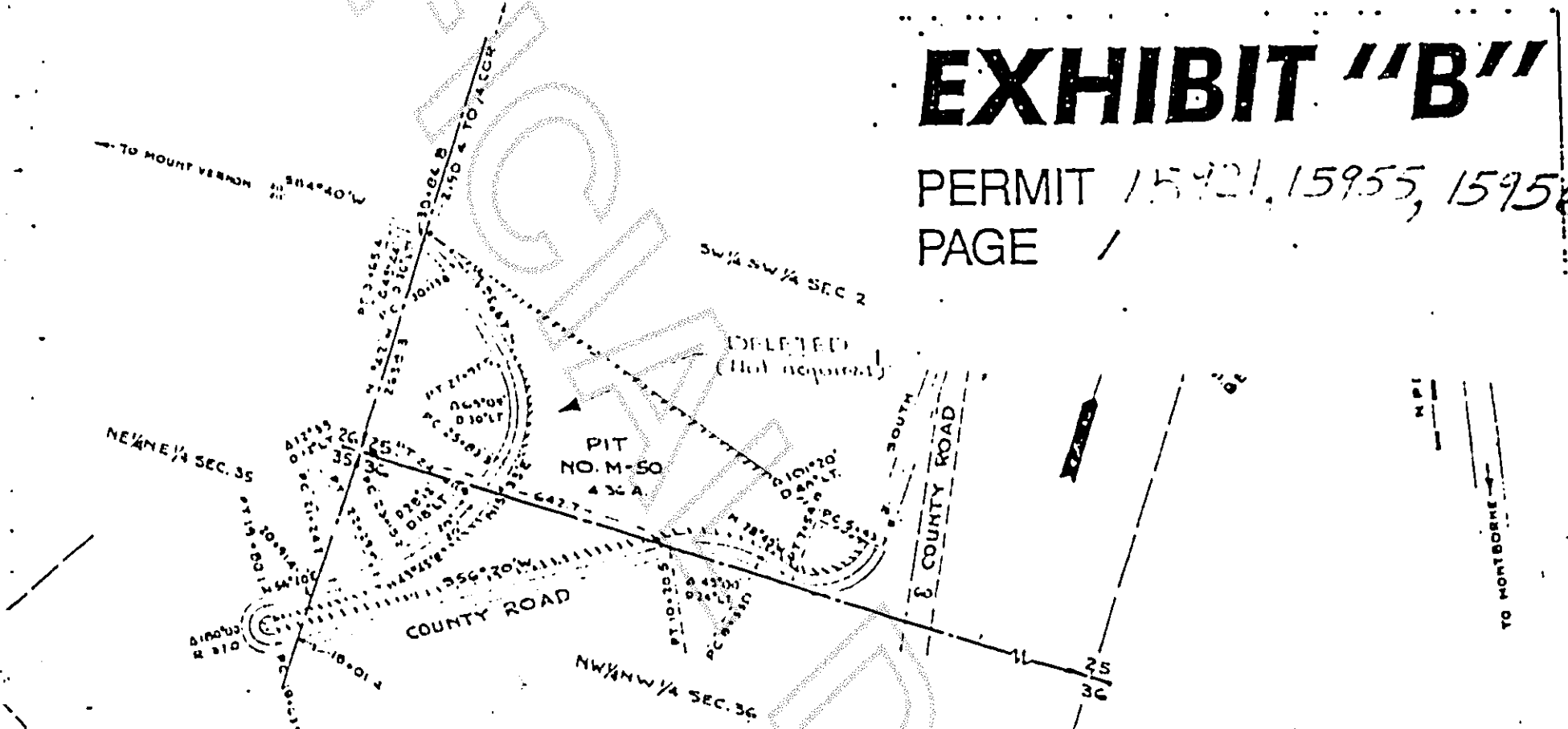
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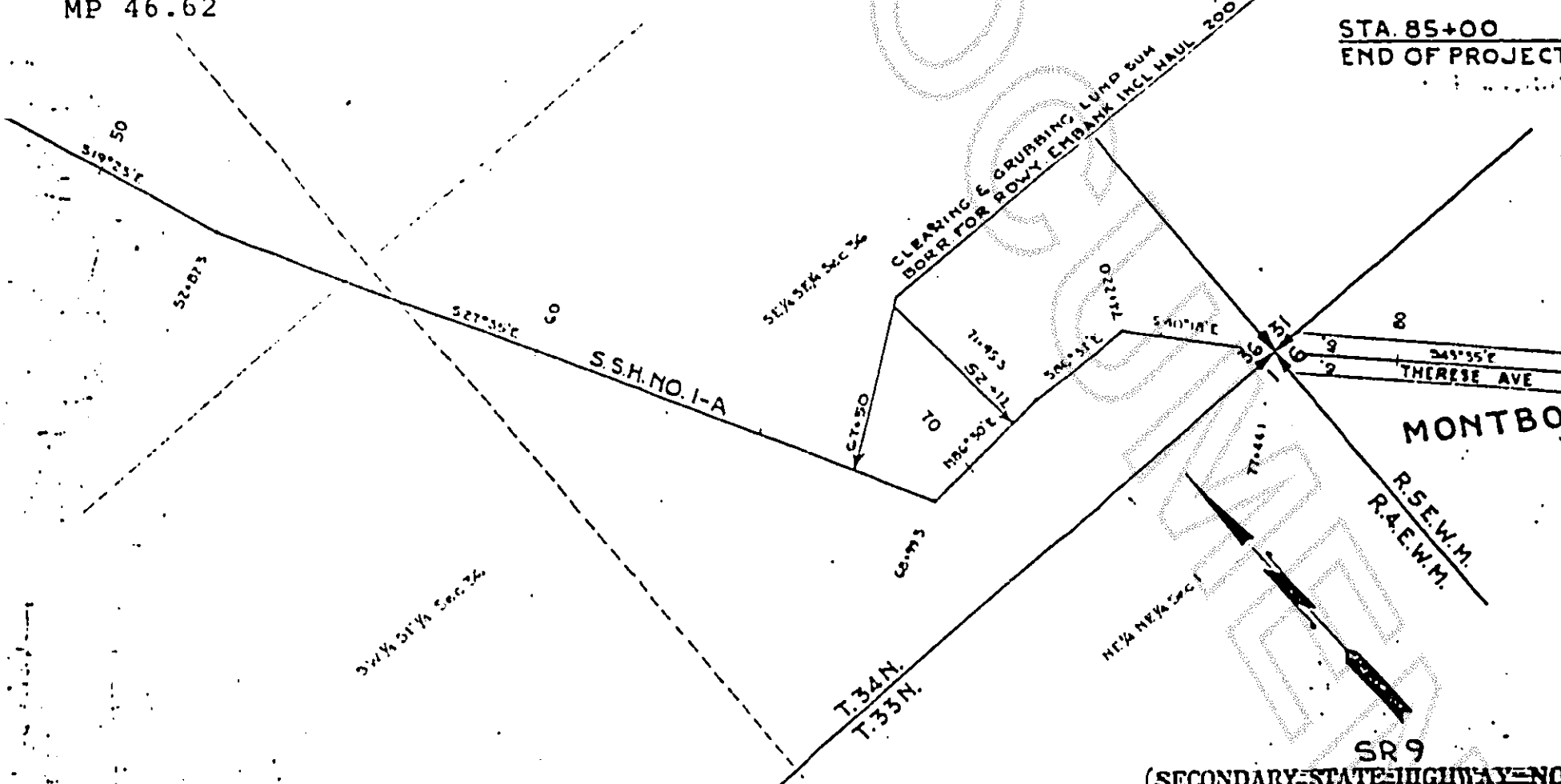
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EXHIBIT "B"

PERMIT 15921, 15955, 15956
PAGE 1



NONCONFORMING
TYPE "C" 20-FOOT "CATEGORY I" ACCESS CONNECTION
MP 46.62



STA. 85+00
END OF PROJECT

9503200058

BK 1423EG0459

DATE 10-24-11 BY 114-11 SUPERSEDED BY 114-11 CHANGED BY 114-11
APPROVED BY 114-11 SUBSEQUENT APPROVAL



SR 9
(SECONDARY STATE HIGHWAY NO. 9)
MONTBORNE NORTH

SKAGIT COUNTY
STATE OF WASHINGTON
DEPARTMENT OF HIGHWAYS
OLYMPIA, WASHINGTON
SCALE: 1 INCH = 20 FEET
APPROVED FEB 26, 1966

SHEET 1 OF 1 SHEETS

**AGREEMENT TO CONSTRUCT
AND MAINTAIN ROADWAY, AND TO GRANT AND MAINTAIN
EASEMENTS FOR INGRESS AND EGRESS**

THIS AGREEMENT, made and entered into this 25 day of August, 1993, by and between Michael and Catherine Kerwick, hereinafter referred to as "Kerwick"; and Stephen J. and Janet M. Ruhl, hereinafter referred to as "Ruhl".

WHEREAS, Kerwick is the owner of the residential real property described on Exhibit A attached hereto (the Kerwick property); and

WHEREAS, Ruhl is the owner of the residential real property described on Exhibit B attached hereto ("the Ruhl property"); and

WHEREAS, the Kerwick property and the Ruhl property abut each other/(the southerly boundary of the Kerwick property is adjacent to the northerly boundary of the Ruhl property); and the easterly boundaries of both properties abut the westerly boundary of State Highway SR #9 in Skagit County at Mile Post 46.62, Sec. 36, Township 34NR4E West/East W.M. ("SR9") all of which is shown on a sketch attached as Exhibit C; and

WHEREAS, the parties have agreed to the construction of a Type "A" 20 Foot "Category 1" Access Connection ("the Roadway") from and across the easterly 20 feet of both properties to SR9 as shown on Exhibit D; and to the granting of easements for ingress and egress and the maintenance thereof, and desire to put said agreements in writing,
NOW, THEREFORE,

EXHIBIT "C"

K:\MC\44
(081693)

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PERMIT 15921, 15955, 15956
PAGE 1

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BK 1423 PG 0460

1. The Grant of Easements. Kerwick does hereby grant to Ruhl, and to Ruhl's assigns and their invitees, an exclusive easement for the right of ingress and egress over the Southerly 10 feet of the Easterly 30 feet of the Kerwick property, for the purpose of ingress and egress to and from SR9. Ruhl does hereby grant to Kerwick, and to Kerwick's assigns and their invitees, an exclusive easement for the right of ingress and egress over the Northerly 10 feet of the Easterly 30 feet of the Ruhl property for the purpose of ingress and egress to and from SR9. It is the intent of the parties hereto that said easements of ingress and egress over said Roadway shall permit persons to enter or leave the Kerwick property and the Ruhl property over the Roadway from and to SR9. The parties agree that there shall be no parking permitted on said Roadway and no building shall be constructed thereon.

2. The Cost of Construction and Maintenance. The cost of construction and surfacing of said Roadway and the subsequent maintenance of said Roadway shall be shared between Kerwick and Ruhl equally.

2.1 Maintenance and Location of Roadway: The parties hereby agree that said Roadway shall be maintained so as to allow free and reasonable passage of such vehicular traffic as may be reasonable and necessary in order that all parties may enjoy full and free use of their properties. The Roadway may be altered on each person's individual parcel as long as it does not affect any party's ability to have access to their property in the attached legal descriptions. Nothing in this Agreement requires any movement of the road on other parties' parcels without their consent. Any cost of altering the Roadway on an individual's property shall be at the sole and exclusive cost of that property owner.

2.2 Procedure for Work Order. In the event that the owner(s) of a parcel of land affected by this Agreement shall desire to have maintenance work done on said Roadway at common expense, he/she shall circulate a written notice by certified mail, explaining the nature of the work desired and the expected cost thereof, to all parties hereto. If, after the expiration of ten (10) days from the date of receipt of said notice by all parties, no objection to such work or cost has been received, a majority of the parties hereto shall have the right to order work which is necessary and at a cost which is no more than the cost set forth in the written notice. If an objection is received by the owner who sent the notice, no work shall be ordered or done until a meeting has been called of all owners, and at which meeting a majority of the owners has agreed to the work. Nothing in this Agreement shall be interpreted as providing for any agreement of the parties hereto to improve, or to pay for the improvement of, the Roadway in excess of its initial state, i.e., this Agreement is only for maintaining the Roadway in its initial state and not to improve it, including, but not limited to, improving it by paving or asphaltting the Roadway.

2.3 Extraordinary Use and Cost. In the event that the owner(s) of parcels of land affected by this Agreement should, by their use of said Roadway, cause it to be damaged by such use, the individual(s) subjecting the Roadway to such extraordinary use shall have the obligation to repair such Roadway to the condition existent prior to such use and all expense therefrom shall be borne by such individual(s).

2.4 Unpaid Costs to be a Lien on Land. In the event a party does not pay his or her pro-rata share of costs within thirty (30) days after it is requested, the remaining parties, and each of them shall be entitled to claim a lien against the non-paying party's parcel of property, and to bring suit for such costs plus attorney's fees and costs incurred thereby. Said lien shall be foreclosable as a mortgage pursuant to the laws of the State of Washington.

3. Successors. It is understood that Kerwick and/or Ruhl may sell portions of their property to third parties for residential purposes, and they agree that said purchasers shall have the same rights and liabilities in regard to this Roadway as the parties hereto.

4. Binding Effect of Agreement. The parties hereto agree that all of the provisions and easements set forth in this Agreement shall inure to and be binding upon the parties, their heirs, successors and assigns, and that said provisions of this Agreement are unique and that damages for their breach are unascertainable and that each of the parties hereto shall have the right to enforce the provisions of this Agreement by petitions for specific performance, and if such petition is required to enforce the provisions of this Agreement, the prevailing party shall be awarded reasonable attorney's fees and their costs incurred.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

Michael Kerwick
Michael Kerwick

Catherine Kerwick
Catherine Kerwick

Stephen J. Ruhl
Stephen J. Ruhl

Janet M. Ruhl
Janet M. Ruhl

K:\MC\44
(081693)

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EXHIBIT "C"

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PAGE 4

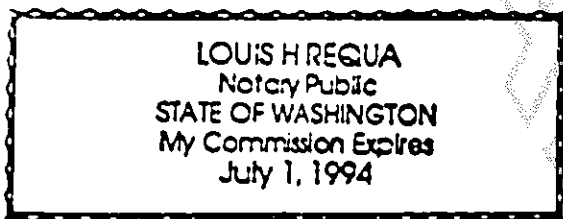
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BK 1423 PG 0463

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 25 day of August, 1993, ~~before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me~~ MICHAEL KERWICK and CATHERINE KERWICK, described in and who executed the foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the use and purposes therein mentioned.

GIVEN under my hand and official seal hereto affixed the day and year first written above.

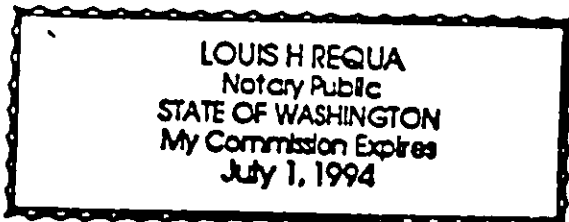


Louis H Regua
Notary Public in and for the State of Washington
residing at Sedro-Woolley, WA.
My commission expires: July 1, 1994

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this 25 day of August, 1993, ~~before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me~~ STEPHEN J. RUHL and JANET M. RUHL, described in and who executed the foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the use and purposes therein mentioned.

GIVEN under my hand and official seal hereto affixed the day and year first written above.



Louis H. Regua
Notary Public in and for the State of Washington
residing at Sedro-Woolley, WA.
My commission expires: July 1, 1994

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EXHIBIT "C"

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