

SKAMANIA COUNTY, WASHINGTON

YAKIMA BINDERY & PTO. CO. 155234

damage or injury to property or persons caused or occasioned in whole or in part by reason of said construction.

2. While the Railway Company is willing to accomodate the State by allowing it to locate the highway upon its right of way as hereinbefore described, it is not willing that the existence of the highway shall interfere in any way with the double tracking of said right of way for railroad purposes. It is, therefore, distinctly agreed that if the Railway Company shall hereafter wish to make use of the land occupied by the highway at the location above designated for the purposes of double tracking, the State will, as promptly as it is permitted by law and on being requested so to do by the Railway Company, move said highway so as to allow of such use by the Railway Company where reasonably possible or, if not reasonably possible, the State will participate in the cost of making such adjustments in the location of the existing tract as will permit the construction of a double track and will reimburse the Railway Company for such cost and expense as shall exceed the cost of constructing such double track had the highway not been constructed. If, however, in constructing such highway there shall be moved material that the Railway Company would be required to move in doing its work, but for the work done in constructing the highway, then the Railway Company will pay the State the amount of money that it would cost the Railway Company to move the number of cubic yards of material which were moved in constructing the highway, applying the cost prices current at the time the Railway Company does its work. The intent and purpose of this provision being that the Railway Company shall be placed in the same financial position it would have occupied if the highway had not been constructed.

3. The State shall at its sole cost and expense, whenever requested by the Superintendent of the Railway Company, install fences approved by said Superintendent at such points along the right of way above described as may be prescribed by the Superintendent of the Railway Company, and the State, at its sole cost and expense, shall also keep said fences so installed by it in good state of maintenance and repair.

4. All of the work authorized hereunder shall be done in such manner as not unnecessarily to interrupt or delay the operations of the railroad or trains of the Railway Company or to damage the property, structures or equipment of the Railway Company, or to cause injury or damage to the persons or property of employees or patrons of the Railway Company. As one of the express conditions of this grant and as a part of the compensation to the Railway Company for the taking, using and damaging of its property by the State, the State shall indemnify and save harmless the Railway Company to the full extent allowed by law against any and all loss, costs, damage and expense which the Railway Company may sustain by reason of (1) damage to its property or to the property of others for which it may be held liable, and/or (2) injury to its employees, passengers, licensees or other persons for whose injuries it may be held responsible, in any manner arising out of or attributable to the construction, maintenance or use of the highway upon the property of the Railway Company hereinabove described; it being the intent hereof that the State shall assume to the full extent allowed by law any and all added risk to the Railway Company of loss through damage to property and/or injury to persons by reason of the occupancy of said property for highway construction and use.

5. The State, at its own sole cost and expense, shall construct and maintain concrete or masonry walls at such points as may be determined by the Superintendent of the Railway Company in the exercise of his sole judgment and discretion, to prevent the slopes of the highway from approaching nearer than fifteen (15) feet measured at right angles from the center line of the track of the Railway Company, or otherwise properly to protect the track of the Railway Company. The plans and specifications for any such walls shall be submitted to and be approved by the Superintendent of the Railway Company before construction thereof is commenced. The near face of any such wall shall not be nearer to the track