

After recording return document to:

State of Washington  
Department of Transportation  
Real Estate Services Office  
P O Box 47338  
Olympia WA 98504-7338

**Document Title: Surface Use Waiver**  
**Reference Number of Related Document: 25557**  
**Grantor(s): Union Pacific Railroad Company**  
**Grantee(s): State of Washington, Department of Transportation**  
**Legal Description: S 36, T 3N, R 8E, W.M.**  
**Additional Legal Description is on Page 6 of Document**  
**Assessor's Tax Parcel Number: N/A 0308360008000**

### SURFACE USE WAIVER

WHEREAS, Union Pacific Railroad Company, a Utah corporation, by deed dated March 4, 1938, and recorded on April 27, 1938, at Book 27, Page 47, in the real property records of Skamania County, Washington (the "1938 Deed"), Union Pacific Railroad Company reserved unto itself, its successors and assigns, minerals and mineral rights in and to a certain tract of land (the "Property") containing 3.1 acres in the James M. Findley Donation Land Claim No. 39 located in Section Thirty-Six (36), Township Three (3) North, Range Eight (8) East of the Willamette Meridian, Skamania County, Washington, and being more particularly described in **Exhibit A** attached hereto and made a part hereof, said mineral reservation reserved as follows:

"First: The fee simple title to any and all coal, oil and other minerals within or underlying said lands, intending thereby any and all inorganic substances (including oil and natural gas) now known to exist or hereafter discovered upon or beneath the surface, having sufficient value, separated from their situs as a part of the earth, to be mined, piped, pumped, quarried, dug, or otherwise removed, for their own sake, or their own specific uses.

Second: The perpetual and exclusive right (a) to enter upon said land to prospect for and to remove therefrom any and all such substances, the earth or other matter containing same necessary or convenient in the removal thereof; and (b) to use so much of the surface of said lands as may be necessary or convenient for such prospect work and the removal therefrom of such substances, for the deposit of tailings, and for the construction of buildings, storage tanks, and the placing and operation of machinery and trackage, pipe lines and other means of transportation, necessary or convenient in connection therewith.

Third: The perpetual right to remove the subjacent support from said surface except such as is necessary for the support of permanent structures erected thereon prior to the time such right is exercised) without thereby incurring any liability whatsoever for damage so caused."

WHEREAS, effective February 1, 1998, Union Pacific Railroad Company, a Utah corporation, merged with and into Southern Pacific Transportation Company, a Delaware corporation, which simultaneously changed its name to Union Pacific Railroad Company, a Delaware corporation (hereinafter, the "Mineral Owner"); and


WHEREAS, State of Washington, Department of Transportation purchased the surface estate in the Property from Mineral Owner by the 1938 Deed, and has now requested Mineral Owner to waive its rights to use the surface of the Property to explore, drill for, produce, store, treat, or transport the oil, gas and other minerals in, on, under, or that may be produced from the Property, and Mineral Owner has agreed to waive its surface rights only as reserved in the 1938 Deed.

NOW, THEREFORE, in consideration of the premises, and for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) cash and other good and valuable consideration to Mineral Owner paid by State of Washington, Department of Transportation, the receipt and sufficiency of which is hereby acknowledged, the Mineral Owner does hereby agree as follows:


1. The Mineral Owner, for itself, and its successors and assigns, does hereby RELEASE AND WAIVE all rights to use the surface of the Property, or to damage or interfere with the use of the surface of the Property, for any purpose whatsoever in connection with its mineral estate described above and the oil, gas and other minerals in, on, under and that may be produced from the Property, including but not limited to, exploring for, drilling, producing, storing, treating, or transporting said oil, gas and other minerals.
2. The provisions hereof shall be binding upon and shall inure to the benefit of the undersigned Mineral Owner and the undersigned State of Washington, Department of Transportation and their respective successors and assigns, and shall be a covenant running with the Property.

EXECUTED this 9<sup>th</sup> day of February, 2012.

UNION PACIFIC RAILROAD COMPANY,  
a Delaware corporation

By:   
Name: Craig G. Davis  
Title: Manager – Minerals and Water Rights

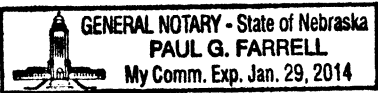
WASHINGTON STATE DEPARTMENT OF  
TRANSPORTATION

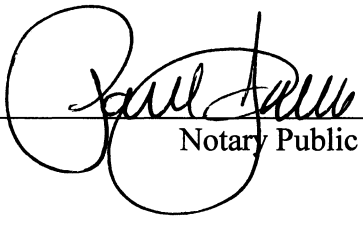
By:   
Name: Terry T. Meara  
Title: Headquarters Real Estate Services  
Program Administrator

Unofficial Copy

STATE OF NEBRASKA ' '  
COUNTY OF DOUGLAS ' '

This instrument was acknowledged before me on the 9<sup>th</sup> day of February, 2012, by Craig G. Davis in his capacity as Manager – Minerals and Water Rights for UNION PACIFIC RAILROAD COMPANY.

(Seal) 

  
Notary Public

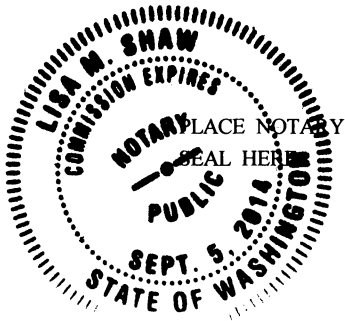
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STATE OF WASHINGTON

COUNTY OF THURSTON

On this 13<sup>th</sup> day of MARCH, 2013 before me personally appeared Terry T. Meara as Headquarters Real Estate Services Program Administrator, to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.



Lisa M. Shaw

Notary Public in and for the State of Washington,

Residing at Olympia

My Appointment Expires 9-5-2014

Unofficial Copy

**EXHIBIT "A"**

**Legal Description of Property**

A piece or parcel of land situate in the James M. Findley Donation Land Claim No. 39 in Section Thirty-six (36), Township Three (3) North, Range Eight (8) East of the Willamette Meridian, in Skamania County, Washington, described as follows, to-wit:

Beginning at a point that is sixty (60) feet distant north-easterly, measured at right angles, from a point in the center line of State Road No. 8, designated as Highway Survey Station 456+00 thereof, as said center line is described in that certain deed from the Union Pacific Railroad Company to the State of Washington, dated July 7, 1936.

Thence Northeasterly along a straight line at right angles to said center line of State Road No. 8 a distance of two hundred ninety (290) feet to a point;

Thence Northwesterly parallel with and three hundred fifty (350) feet distant northeasterly, measured at right angles, from said center line of State Road No. 8, to a point in a line that is parallel with and ten (10) chains east of west line of said Donation Land Claim;

Thence South along said line that is parallel with and ten (10) chains east of the west line of said Donation Land Claim, to a line that is parallel with and sixty (60) feet distant northeasterly, measured at right angles, to said center line of State Road No. 8;

Thence Southeasterly along said line parallel with and sixty (60) feet distant Northeasterly, measured at right angles, from said center line of State Road No. 8 as described in said deed dated July 7<sup>th</sup>, 1936, to the point of beginning.