

Cause No. 14-001161-CV-272

UNION PACIFIC RAILROAD COMPANY <i>Plaintiff,</i>	§ § § § § § § §	IN THE DISTRICT COURT OF
v.		BRAZOS COUNTY, TEXAS
FIBERLIGHT, LLC <i>Defendant.</i>		272nd JUDICIAL DISTRICT

Defendant's Response to Plaintiff's Application for Ex Parte Temporary Restraining Order and Temporary Injunction, Motion to Dissolve Ex Parte Temporary Restraining Order or, alternatively, Motion to Increase Bond Amount

Plaintiff Union Pacific Railroad Company ("UP") only gave the Court part of the story to obtain its ex parte restraining order in its Original Petition and Application for Temporary Restraining Order seeking to enjoin FiberLight, LLC ("FiberLight") from installing its facilities in Brazos County. What UP failed to mention is that the location where FiberLight installed its facility is a public crossing of a city-owned thoroughfare over UP's railroad tracks. It is a *public right-of-way*, not merely UP's private railroad tracks. Because FiberLight installed its facility in a public right-of-way, UP has no viable basis in asserting it is entitled to enjoin FiberLight from the installation of its telecommunication facility at the crossing of 26th Street and UP's railway, in Bryan, Texas. And UP consequently also has no basis to assert FiberLight is not entitled to install its facilities in similar public rights-of-way in Brazos County. As approved by the State of Texas, FiberLight is authorized to proceed in the public right-of-way and thus UP's trespass claim has no basis. But even if UP's allegations were true, and this one facility was in fact on UP's private property, UP cannot, under the applicable rules for injunctive relief, enjoin FiberLight from installing *all* its planned installations in Brazos County. Thus, this Court should dissolve the ex parte temporary restraining order and refuse to enjoin FiberLight from installing the telecommunications facilities in Brazos County.

I.
Background

FiberLight is a telecommunications company that installs facilities throughout Texas in the public rights-of-way, often along federal and state highways. These facilities are generally placed underground, and consist of 2-4 inch pipes containing fiber optic cable. The fiber optic cables, when used in conjunction with existing cell towers, allow for better, faster, and greater cell phone coverage for Texas customers throughout the state. Its installations increase cell phone signal strength, allow for increased data transmission, and notably increase cell phone and internet access to rural areas in Texas that either receive no or minimal coverage. Particularly helpful to the citizens of Texas, FiberLight's installations allow for the "reverse 911" technology to operate.¹ See Affidavit of Charles F. Beck, attached as **Exhibit 1**, ¶4, 5.²

FiberLight also maintains a primary office in Carrollton, Texas, as well as other offices in Houston, Midland, San Antonio, and Arlington, and conducts most of its business in Texas, employing Texans with knowledge and experience in the Texas telecommunications industry. In fact, FiberLight is in the process of building a network of 8,000 miles in Texas, the largest network of its kind in the nation. Notably, UP fails to make any mention in its Petition that FiberLight is a certificated service provider and holds a service provider certificate of operating authority (SPCOA), granted by the State of Texas through the Public Utility Commission of Texas ("PUC"), entitling FiberLight to install facilities throughout Texas. See **Exhibit 1**, ¶6, 7; see Exhibit A to Exhibit I (**Exhibit 1-A**).

¹ "Reverse 911" is the communication tool that utilizes a database of telephone numbers and addresses, which are associated with GIS mapping technologies to deliver emergency notifications to the community via telephone.

² FiberLight has attached the signed Affidavit of Charles F. Beck to this filing, and will supplement and provide to the Court a signed and notarized copy of this affidavit on May 19, 2014.

As part of its planned installation in Brazos County, FiberLight had designed its installation to follow along public rights-of-way, including 26th Street in Bryan, Texas. *See* **Exhibit 1**, ¶8; *see* **Exhibit 1-B**.

For its installations, FiberLight is under contract with national wireless carriers, such as Verizon Wireless (“Verizon”), and is bound to install its facilities in a timely manner. Delays, such as those imposed here by UP’s legal wrangling, cause significant and real damages to FiberLight, including penalties based on FiberLight’s contract with its customers. *See* Affidavit of Tony D. Cash, attached as **Exhibit 2**, ¶8.

Indeed, *more than a year ago*, through letters from its agent, FiberLight contacted UP concerning its planned installation under the railway crossing, provided copies of the planned installation design, filled out the appropriate application, confirmed all safety standards were to be met, and provided certificates of insurance. *See* Affidavit of David L. Thomas attached as **Exhibit 3**, ¶4, 6, 7, 11; *see* **Exhibit 3-F**. In fact, on March 21, 2013, UP provided FiberLight with a Consent Letter noting that UP had reviewed the engineering drawings and approved the installation. *See* **Exhibit 1-C**. Yet despite this approval, UP has continued to work to prevent FiberLight from being able to proceed with its planned installation, in the public right-of-way, that has been approved by the proper state, county, and city authorities. *See* **Exhibit 2**, ¶9, 10.

In fact, UP has gone so far as to take inappropriate self-action in its unfounded attempts to delay FiberLight. Even after providing FiberLight with a Consent Letter for this installation, UP continued to aggressively thwart FiberLight’s efforts to move forward by threatening FiberLight employees and contractors at installation sites and inappropriately contacting the local authorities to halt work. One UP employee went so far as to damage FiberLight’s property by pulling out a conduit that was already installed, causing significant damage to FiberLight. *See*

Exhibit 2, ¶4; *see* Exhibit A to Exhibit 2 (Exhibit 2-A). FiberLight confronted UP concerning this theft and damage to the conduit, and UP agreed to reimburse FiberLight for the damage. *See* Exhibit 2-B. It was during the discussions concerning this damage that FiberLight and UP began to work towards negotiating an agreement for handling installations under UP's railway tracks. While FiberLight contends it is entitled to proceed in the public right-of-way with UP approval, it hoped to negotiate an agreement that would be efficient and beneficial to both parties. Those negotiations broke down when UP insisted on unreasonable requirements, without any basis in the law, such as flagmen at every installation and unreasonable fees for as much as \$2500 per crossing. *See* Exhibit 2, ¶2.

For the installation at issue in this cause, FiberLight worked extensively with the City of Bryan to provide the City with all the information it needed about the project and to set up channels of communication, allowing FiberLight to proceed safely with the City and cooperate with the City to support its needs. FiberLight submitted detailed plans of the installation to the City, including not only the location of FiberLight's planned installation but also details regarding the location of other underground utilities. FiberLight received the proper approval from the City of Bryan and, *at the City's request*, installed its facilities during the night hours for safety reasons because of the reduced impact on traffic at 26th Street.³ UP's repeated suggestion that FiberLight nefariously installed its facilities under the cover of night only highlights the weaknesses in their arguments and is designed to unfairly bias this Court against FiberLight. There was no "secret operation" and no danger to the public. FiberLight complied with all federal and state laws and safety precautions during its installation in the public right-of-way at 26th Street. *See* Exhibit 1, ¶11, 12.

³ UP certainly knows that this operation was not done secretly at night. In fact, as shown in Exhibit D attached to UP's Application, an email from Tony Cash at FiberLight clearly explains that the installation proceeded at night based on the City's request.

Late on a Friday afternoon, on May 2, 2014, UP filed its Petition and this Court granted an ex parte restraining order, set a bond in the amount of \$5,000, and set a hearing. This Response addresses UP's Application for a Temporary Restraining Order and Temporary Injunction, corrects the factual misstatements in UP's filings with the Court, and explains the basis for FiberLight's authority to proceed in the public right-of-way along 26th Street in Bryan, Texas, including at the right-of-way's crossing of UP's railway.

II. Argument

A. On its face, UP's petition fails to meet the basic requirements to support the ex parte temporary restraining order.

While FiberLight contests that UP has any basis for injunctive relief as explained further below, this Court should dissolve the ex parte Temporary Restraining Order because UP seeks to enjoin *future, unspecified installations* in Brazos County. UP's Petition spends pages laying out its factual allegations and its basis for a trespass claim for a facility *that has already been installed*. Yet instead of seeking relief based on this installation, UP seeks vague, speculative injunctive relief concerning future installations. Thus, on its face, UP's Application for a Temporary Restraining Order fails to meet Texas Rule of Civil Procedure 683's basic specificity requirements.

UP is not entitled to receive injunctive relief to prevent an alleged threatened act, the commission of which is merely speculative and the injury from which is purely conjectural. *Democracy Coal. v. City of Austin*, 141 S.W.3d 282, 296 (Tex. App.—Austin 2004, no pet.). Generally, the purpose of injunctive relief is to halt wrongful acts that are threatened or in the course of accomplishment, rather than to grant relief against *past actionable wrongs* or to prevent the commission of wrongs not imminently threatened. *Id.* (emphasis added). Fear or apprehension of the possibility of injury is not sufficient. *Frey v. DeCordova Bend Estates*

Owners Ass'n, 647 S.W.2d 246, 248 (Tex. 1983). In fact, a court does not have jurisdiction to enjoin conjectural or speculative events under the injunction statute. *See Limon v. State*, 947 S.W.2d 620 (Tex. App.—Austin 1997, no writ). Thus, even without addressing UP's allegations, this Court should dissolve the temporary restraining order because it is improperly granted.

B. Because FiberLight has unquestionable authority to proceed in the public right-of-way in its crossing of UP's railway, there is no trespass claim and thus no basis for the temporary restraining order and temporary injunction requested by UP.

UP bases its temporary injunction request on a claim for trespass, alleging that FiberLight has trespassed on its private property by installing its facility. But UP makes claims that are not supported by the law. Rather, they are intended to pressure FiberLight into signing an agreement with UP that would require FiberLight to make concessions it is not required to make under any state and federal law. In its negotiations with FiberLight concerning an agreement for future installations and in its Petition, UP has repeatedly insisted that FiberLight use flagmen during its installation over UP's railways, regardless of whether a flagman is needed for safety reasons, whether the track has other safety features, or whether the track even has any train traffic. UP has failed to cite or reference any law, federal or state, that requires FiberLight to use a flagman at its installation site.

As FiberLight has expressed to UP during the course of negotiations, FiberLight objects to the use of a flagman at *every* installation, not to the use of flagmen where it is appropriate or where the use of a flagman is reasonably restricted. FiberLight previously agreed to unrestricted use of flagmen at another installation, even though it was not necessary under the law or for public safety reasons, and the cost of this unrestricted use exceeded \$18,000 for just one installation. *See Exhibit 2, ¶7; Exhibit 2-C*. Instead of responding to FiberLight's valid concerns or providing any legal basis for its insistence that a flagman is needed, UP instead filed its

Petition and sought injunctive relief, crippling FiberLight's already behind-schedule planned installations.

UP's arguments confuse the alleged compensation requirements and condemnation power of a telephone corporation installing its facilities across or under a railway *not* located at a public crossing.⁴ These fees or compensation might apply if FiberLight was installing a facility under UP's railway but *outside* of the public right-of-way at 26th Street. But instead, Texas Utilities Code section 181.082 expressly authorizes FiberLight to install its facility in this public right-of-way.

As section 181.082 states:

A telephone or telegraph corporation may install a facility of the corporation along, on, or across a public road, a public street, or public water in a manner that does not inconvenience the public in the use of the road, street, or water.

TEX. UTIL. CODE § 181.082. While section 181.082 addresses "a telephone or telegraph corporation," Texas courts have interpreted this section and its predecessors broadly. *See San Antonio & A.P. Ry. Co. v. Sw. Tel. & Tel. Co.*, 55 S.W. 117, 117 (1900). When the text of a statute logically authorizes the application of the statute to a new technology or communication medium, courts have applied the statute in that manner. *See, e.g., Kaufman v. Islamic Soc. of Arlington*, 291 S.W.3d 130, 141 (Tex. App.—Fort Worth 2009, pet. denied) (citing *San Antonio & A.P. Ry. Co.*, 55 S.W. at 117). Consequently, both state and federal courts have recognized that section 181.082 (and its predecessor statutes) grants telecommunications corporations, including those that install fiber underground, broad powers to install their lines within the rights-of-ways

⁴ The only case cited by UP, *Missouri, Kan. & Tex. R. Co. v. Rockwall County Levee Improvement Dist. No. 3*, 117 Tex. 34, 297 S.W. 206, 212 (1927), is inapposite to this matter. That case involved whether or not the police power was properly used by a levee district and whether the amount the levee district paid for crossing the railroad's tracks was appropriate. That case did not involve the use of a public right-of-way by a utility and has no bearing on Texas Utilities Code section 181.082, whose predecessor statute was in place at the time of the *Missouri, Kan. & Tex. R. Co.* decision.

of public roads. *See Mellon v. S. Pac. Transport Co.*, 750 F.Supp. 226, 230 (W.D. Tex. 1990) (noting that fiber optic cable is the “modern application of its antecedent the telegraph line”); *see also Harlingen Irrigation Dist. Cameron County No. 1 v. Caprock Commc’ns Corp.*, 49 S.W.3d 520, 533-34 (Tex. App.—Corpus Christi 2001, pet. denied) (applying section 181.082 to a telecommunications corporation installing fiber optic cable underground); *Sw. Bell Tel. Co. v. City of El Paso*, 346 F.3d 541, 548 (5th Cir. 2003); *AT&T Commc’ns v. City of Dallas*, 8 F.Supp.2d 582 (N.D. Tex. 1998).⁵

FiberLight, and other certificated service providers, are authorized to install facilities in the public rights-of-way under Texas Utilities Code section 181.082 because they serve the function of “stepping into the shoes” of the telephone corporation monopolies. Prior to 1996, local telephone services were provided by monopolies in all cities in Texas. *See AT&T Commc’ns*, 8 F.Supp.2d at 586-88. But in 1996, Congress enacted the Federal Telecommunications Act of 1996 (“FTA”), which made sweeping changes to the industry and ended the monopolies in local telephone service. *See id.* Through this Act, Congress sought to foster immediate competition by stripping away many of the legal and economic impediments to entry into the local telephone markets. “One way that Congress intended to bring about this demonopolization was to encourage viable competition with incumbent LECs by allowing new market entrants to use the incumbent’s existing networks and facilities by reselling the incumbent’s local services.” *See id.* at 586.

In Texas, for a telecommunications corporation to provide local exchange telephone service or basic local telecommunications service, it must obtain a certificate of convenience and

⁵ In fact, the predecessor of section 181.082 has been recognized as providing authority for corporations that provide TV cable services to install their facilities within public right-of-ways. *See Op. Tex. Att’y Gen. No. C-702 (1966)*. As emphasized in that opinion, a broad interpretation is appropriate because it is in the public’s interest to receive utility services. *See id.*

necessity, a certificate of operating authority, or a service provider certificate of operating authority under the Public Utilities Regulatory Act (“PURA”). TEX. UTIL. CODE § 54.001. In the case of a service provider certificate of operating authority (“SPCOA”), a telecommunications corporation applies to the PUC for an SPCOA, and the PUC requires and reviews detailed financial, technical, and operational information about the company.

FiberLight initially applied for an SPCOA in 2005 and was granted one. *See Exhibit 1-A*. Subsequently, FiberLight also applied for amended SPCOAs, also granted by the PUC, in 2008 and 2012, which expanded its service area. *See id.* Specifically, the 2012 Amended SPCOA expanded the service area for FiberLight from the exchanges of Southwestern Bell Telephone Company d/b/a AT&T Texas (“AT&T Texas”) and Verizon to the entire State of Texas. Based on this certificate and the authority granted by Texas Utilities Code section 181.082, FiberLight is authorized to proceed in the public rights-of-way, including the crossing of UP’s railway in the public right-of-way at 26th Street.

C. FiberLight is authorized to install its facility because the crossing at issue is a public road, not private property, under state and federal authority.

The crossing at issue is a **public** crossing, not the **private** property of the railroad. This is a public road that crosses over UP’s railroad track. In fact, the United States government recognizes that this is a public right-of-way. The crossing at issue here is a “public at grade” crossing according to the U.S. Department of Transportation records concerning railway crossings. *See Exhibit 3*, ¶10; *see Exhibit 3-E*. Under the federal regulations related to highway safety, “public grade crossing” means “a railway-highway grade crossing where the roadway is under the jurisdiction of and maintained by a public authority and open to public travel. All roadway approaches must be under the jurisdiction of the public roadway authority, and no roadway approach may be on private property.” 23 CFR 924.3. The information about this

crossing is related to the inventory kept by the U.S. Department of Transportation concerning Highway–Railroad Grade Crossing safety equipment installations, which are designed and installed by the Federal Department of Transportation and the Federal Highway Safety Administration. Under federal law, these installations can only be installed on public property, and federal funding cannot be expended for any projects located on private property. Under 23 CFR Part 924, in order to fund a safety improvement project, it must be installed at a public crossing. The safety equipment installations at the crossing of 26th Street and UP’s railway confirm this crossing is a public road, not UP’s private property.⁶ Thus, UP cannot enforce its own private requirements against FiberLight.

D. In the alternative, FiberLight is entitled to an increased bond amount based upon the severe hardship that this broad and far-reaching restraining order will cause it.

For the reasons discussed above, this Court should dissolve the temporary restraining order. But in the alternative, should this Court maintain the temporary injunctive relief, FiberLight is entitled to an increased bond amount under Texas Rule of Civil Procedure 684 because the current amount is insufficient to protect FiberLight against the damages it is accruing every day because of UP’s baseless interference.

As discussed above, FiberLight is under contract for the installation of facilities on behalf of a local exchange carrier, here Verizon. Under such a contract, FiberLight has significant deadlines and a set schedule of installation that it must keep up with in order to provide a network to its customers in a timely manner. If FiberLight cannot meet its schedule because of obstructions from others such as UP, it faces nearly five million dollars in delay penalties owed

⁶ This is also not private property because this area was “dedicated for public use” as early as 1911 by a predecessor, according to the relevant federal Interstate Commerce records. Under Valuation Order #7 issued on November 21, 1913, the railroad industry was required by law to determine if the railroad corridor land was public or private use land. Only land dedicated to public use was allowed to be included in the rate-making structure under this order and, accordingly, the majority of the railroad corridors nationwide were classified as public because it was to their benefit. See **Exhibit 3**, ¶9; see **Exhibit 3-D**.

to Verizon. Interference with just one installation can substantially interfere with the creation of the network. Worse, UP is interfering with *all installations* in Brazos County that cross UP's railway.

Instead of properly handling this dispute with continued negotiations, UP has made the decision to take questionable legal action against FiberLight. Thus, FiberLight should be protected from the damages it will experience during the proceedings initiated by UP in this Court. The bond is currently set for \$5,000, but that amount is woefully insufficient. FiberLight is experiencing at minimum \$10,000 a day in damages based on the delay of the installation of all its facilities in Brazos County. Consequently, the bond amount should be set higher. UP's actions have caused FiberLight significant damages because of its direct interference with this installation, where contractors were already at the scene, not to mention the \$10,000 a day for the ex parte restraining order in effect since May 2, 2014. Based on the reasonable and necessary costs to FiberLight, as supported by the affidavits and included exhibits attached as Exhibit 1 and Exhibit 2, FiberLight requests the bond amount be set at least \$300,000. FiberLight has made a clear showing that the losses caused by the temporary restraining order are greater than the \$5000 bond.

III. Prayer

WHEREFORE, PREMISES CONSIDERED, Defendant FiberLight, LLC prays that this Court dissolve the ex parte Temporary Restraining Order granted on May 2, 2014, deny Union Pacific Railroad Company's request for a temporary injunction, deny UP's Original Petition, Request for Disclosure, Application for Temporary Restraining Order and Original Petition for Injunction, dismiss UP's claims of trespass, and award FiberLight such other relief to which it is justly entitled.

Respectfully submitted,

By: /s/ Amy Leila Saberian

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CERTIFICATE OF SERVICE

I hereby certify that, on May 16, 2014 a true and correct copy of the above and foregoing has been served by email and by electronic filing on the following:

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By: /s/ Amy Leila Saberian
Amy Leila Saberian

UNION PACIFIC RAILROAD COMPANY <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	BRAZOS COUNTY, TEXAS
	§	
FIBERLIGHT, LLC <i>Defendant.</i>	§	272nd JUDICIAL DISTRICT

AFFIDAVIT OF CHARLES F. BECK III

Before me, the undersigned notary, on this day personally appeared Charles F. Beck III, a person whose identity is known to me. After administering an oath upon him, upon his oath he said:

1. My name is Charles F. Beck III. I am over the age of 18 years, have never been convicted of a felony, and am otherwise competent to be a witness. I have personal knowledge of the facts stated in this Affidavit and they are true and correct.

2. I am the Project Manager for FiberLight, LLC (“FiberLight”) covering the Central and East Texas areas, including Brazos County. I have been employed by FiberLight for a year and half and have been responsible for overseeing FiberLight’s network expansion specifically related to all aspects of the construction items for the installation of aerial and buried fiber optic cable.

3. Prior to my current tenure at FiberLight, I was involved with the Real Estate portion of the telecommunications industry for over twenty years, specifically for the procurement of rights-of-way, local/State/Federal permits-approvals, and lease acquisition for the installation of wireless communication towers throughout the 48 contiguous United States.

4. FiberLight is a telecommunications company that installs facilities throughout Texas in the public rights-of-way, often along federal and state highways. These facilities are generally placed underground, and consist of (2) inch and a quarter pipes to house and protect the fiber optic cable. The fiber optic cables, when used in conjunction with existing cell towers, allow for better, faster, and greater cell phone coverage and capacity for Texas customers throughout the state

5. Its installations increase cell phone signal strength, allow for increased data transmission, and notably increase cell phone and internet access to rural areas in Texas that either receive no or minimal coverage. Particularly helpful to the citizens of Texas, FiberLight's installations allow for the "reverse 911" technology to operate. "Reverse 911" is the communication tool that utilizes a database of telephone numbers and addresses, which are associated with GIS mapping technologies to deliver emergency notifications to the community via telephone.

6. FiberLight also maintains a primary office in Carrollton, Texas, as well as other offices in Houston, Midland, San Antonio, and Arlington, and conducts most of its business in Texas, employing Texans with knowledge and experience in the Texas telecommunications industry. In fact, FiberLight is in the process of building a network of 8,000 miles in Texas, the largest network of its kind in the state.

7. FiberLight is a certificated service provider and holds a service provider certificate of operating authority (SPCOA), granted by the State of Texas through the Public Utility Commission of Texas ("PUC"), entitling FiberLight to install facilities throughout Texas. A true and correct copy of FiberLight's SPCOA and amended SPCOA is attached hereto as **Exhibit A**.

8. As part of its planned installation in Brazos County, FiberLight had designed its installation to follow along public rights-of-way, including 26th Street in Bryan, Texas. A true and correct copy of the installation plans are attached hereto as **Exhibit B**.

9. Through letters from its agent, FiberLight contacted Union Pacific Railroad Company (“UPRR”) concerning its planned installation under the railway crossing, provided copies of the planned installation design, filled out the appropriate application, confirmed all safety standards were to be met, and provided certificates of insurance. On March 21, 2013, UPRR provided FiberLight with a Consent Letter noting that UPRR had reviewed the engineering drawings and approved the installation. A true and correct copy of the Consent Letter is attached as **Exhibit C**.

10. Even after providing FiberLight with a Consent Letter for this installation, UPRR continued to aggressively thwart FiberLight’s efforts to move forward by threatening FiberLight employees and contractors at installation sites and inappropriately contacting the local authorities to halt work.

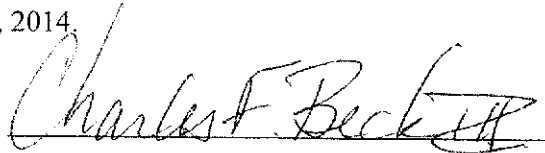
11. For the installation at issue in this cause, FiberLight worked extensively with the City of Bryan to provide the City with all the information it needed about the project and to set up channels of communication, allowing FiberLight to proceed safely with the City and cooperate with the City to support its needs. FiberLight submitted detailed plans of the installation to the City (*see* **Exhibit B**), including not only the location of FiberLight’s planned installation but also details regarding the location of other underground utilities.

12. FiberLight received the proper approval from the City of Bryan and, at the City's request, installed its facilities during the night hours for safety reasons because of the reduced impact on traffic at 26th Street. FiberLight complied with all federal and state laws and safety precautions during its installation in the public right-of-way at 26th Street.

13. For the delay caused by disruption at the scene of the installation, the damages cause to FiberLight, for having to send home those contractors and then later reschedule them again is at least \$4800, not including the additional time involved by FiberLight employees. Attached hereto as **Exhibit D** is a true and correct copy is an invoice of the costs of demobilization and remobilization from the contractor involved with this installation.

Further affiant sayeth not.

Executed on this ____th day of May, 2014



SUBSCRIBED AND SWORN TO BEFORE ME on this the ____th day of May, 2014.

NOTARY PUBLIC, State of Texas

My Commission Expires: _____

Julie Parsley
Commissioner

Paul Hudson
Chairman

Barry T. Smitherman
Commissioner

W. Lane Lanford
Executive Director



RECEIVED
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PUBLIC UTILITIES DIVISION

Public Utility Commission of Texas

TO: Karly E. Baraga
Kelley Drye & Warren LLP
1200 19th St., N.W. #500
Washington, D.C. 20036

Telecommunications Division
Legal and Enforcement Division

RE: **Docket No. 31459 - *Application of FiberLight, LLC for a Service Provider Certificate of Operating Authority***

NOTICE OF APPROVAL

This Notice approves the application of FiberLight, LLC (the Applicant) filed on August 4, 2005, for a service provider certificate of operating authority (SPCOA) to provide facilities-based, data, and resale telecommunications services for the exchanges of SBC Texas throughout the State of Texas. The docket was processed in accordance with applicable statutes and Commission rules. The Commission provided notice of the application to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. The Applicant and the Commission Staff (Staff) are the only parties to the proceeding. Staff recommends approval of the application, as amended. The application, as amended, is approved.

Statutory Findings

1. The Applicant is a Delaware limited liability company formed on March 15, 2005, with authority to transact business in the State of Texas.
2. The Applicant has no parent company or affiliated companies that are public utilities or that are providing telecommunications services.



3. The Applicant, together with its affiliates, has less than six percent of the total intrastate switched access minutes of use, as measured by the most recent 12-month period as set forth in PURA¹ § 54.153.
4. The name under which the Applicant has requested that the SPCOA be issued does not duplicate a name already being used by an existing SPCOA holder nor is it similar to a name currently being used so as to create confusion.
5. The Applicant has applied for a permit, license, or certificate to provide telecommunications services in Maryland, the District of Columbia, Georgia, Florida, and Texas.
6. The Applicant has never had any permit, license, or certificate denied or revoked by any state.
7. The Applicant has never provided telecommunications services in Texas or any other state.
8. The application complies with PURA § 54.154(b).
9. The Applicant is entitled to approval of this application, having demonstrated the financial and technical qualifications to provide the proposed services, and the ability to provide the necessary quality of service to its customers, as required by PURA §§ 54.154(b) and 54.155(b).
10. The Applicant is not precluded by PURA §§ 54.201 or 54.152 from providing service under an SPCOA.

¹ The Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 64.158 (Vernon 1998 & Supp. 2005) (PURA).

Complaint History

11. The Office of the Texas Attorney General reported no complaints registered against the Applicant.
12. A check of the Commission's Customer Protection Division complaint database revealed no complaints registered against the Applicant.
13. A check of the Commission's Enforcement & Investigations database revealed no outstanding notices of violation against the Applicant.
14. The Applicant committed in its responses to the Commission's Service Quality Questionnaire to meet the quality of service standards.

Ordering Paragraphs

1. The application, as amended, of FiberLight, LLC for a facilities-based, data, and resale telecommunications service provider certificate of operating authority (SPCOA) is approved.² FiberLight, LLC is granted SPCOA No. 60736 for the exchanges of SBC Texas throughout the State of Texas.
2. The Applicant shall establish an access line account and submit quarterly reports in compliance with P.U.C. SUBST. R. 26.467 reporting requirements.
3. The Applicant shall be bound by requirements of P.U.C. SUBST. R. 26.111. Service under this certificate shall be provided exclusively in the name under which the certificate was granted by the Commission.

² Administrative approval of this uncontested application has no precedential value in a future proceeding.

4. An SPCOA certificate holder that has not provided service for a period of 12 consecutive months must provide a sworn affidavit to the Commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in the initial application. An SPCOA certificate holder that has not provided service within 48 months of being granted the certificate by the Commission, may have its certificate suspended or revoked, as defined by P.U.C. SUBST. R. 26.114, after due process, or undergo certification re-qualification. The Applicant shall comply with the above requirements.
5. The Applicant shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30th of each year *Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority*, Docket No. 27357. If the SPCOA holder has any change during the year in the information requested in Section One of the annual report form, then the SPCOA holder shall file an updated form correcting the information in Section One within 30 days of the change.
6. The Applicant shall provide a copy of its application and/or the Commission's Notice of Approval, in accordance with the individual entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.
7. The Applicant's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include "9-1-1" emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2003) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters.

The Applicant shall diligently work with the Commission on State Emergency Communications, local "9-1-1" entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all "9-1-1" emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the "9-1-1" entities to pursue, in good faith, the mutually agreed goal that the local "9-1-1" entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of "9-1-1" emergency service.

8. The Applicant shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).
9. The Applicant shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST R. 26.435(e)(4).
10. The Applicant has committed to and is bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying incumbent local exchange companies (ILECs) continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of the SPCOA application does not expand the scope of the underlying ILEC's obligation to its own customers.

11. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 8th day of September 2005.

PUBLIC UTILITY COMMISSION OF TEXAS



**IRENE MONTELONGO
ADMINISTRATIVE LAW JUDGE
POLICY DEVELOPMENT DIVISION**

Barry T. Smitherman
Chairman

Donna L. Nelson
Commissioner

Kenneth W. Anderson, Jr.
Commissioner

W. Lane Lanford
Executive Director



Public Utility Commission of Texas

TO: Denise N. Smith
Kelley Drye & Warren LLP
3050 K Street, N.W., Ste. 400
Washington, D.C. 20007

Infrastructure and Reliability Division
Legal Division

RE: **Docket No. 36021 - Application of FiberLight,, LLC for an Amendment to its Service Provider Certificate of Operating Authority**

NOTICE OF APPROVAL

This Notice addresses the application of FiberLight, LLC (the Applicant) filed on August 18, 2008, for an amendment to its service provider certificate of operating authority (SPCOA) No. 60736 to expand its service area with the exchanges of Verizon Southwest. The docket was processed in accordance with applicable statutes and Commission rules. The Commission provided notice of the application to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. The Applicant and the Commission Staff (Staff) are the only parties to the proceeding. Staff recommends approval of the application. The application is approved.

Statutory Findings

1. The Applicant is a Delaware limited liability company formed on March 15, 2005, with authority to transact business in the State of Texas.
2. The Applicant has authority to provide local retail service in Florida, Georgia, Maryland, Texas, Virginia, and Washington, D.C.

3. The Applicant has never had any permit, license, or certificate denied or revoked by any state.
4. The Applicant is currently authorized to provide facilities-based, data, and resale telecommunications services within the geographic area of Texas currently served by Southwestern Bell Telephone Company d/b/a AT&T Texas (authorized service area).
5. The Applicant requests to amend its SPCOA to expand its service area to include the exchanges of Verizon Southwest throughout the State of Texas.
6. The application complies with PURA § 54.154(b).
7. The Applicant is not precluded by PURA §§ 54.201 or 54.152 from providing service under an SPCOA.
8. The Applicant is entitled to approval of this application, having demonstrated the financial and technical qualifications to provide service, and the ability to provide the necessary quality of service for its customers, as required by PURA §§ 54.154(b) and 54.155(b).

Complaint History

9. The Office of the Texas Attorney General reported no complaints registered against the Applicant.
10. A check of the Commission's Customer Protection Division complaint database revealed no complaints registered against the Applicant.
11. A check of the Commission's Enforcement & Investigations database revealed no outstanding notices of violation against the Applicant.

12. The Applicant committed in its responses to the Commission's Service Quality Questionnaire to meet the quality of service standards.

Ordering Paragraphs

1. The application of FiberLight, LLC to amend its facilities-based, data, and resale telecommunications service provider certificate of operating authority (SPCOA) is approved.¹ FiberLight, LLC's SPCOA No. 60736 is amended to reflect an expansion of its service area to include the exchanges of Verizon Southwest throughout the State of Texas.
2. The Applicant shall be bound by requirements of P.U.C. SUBST. R. 26.111. Service under this certificate shall be provided exclusively in the name under which the certificate was granted by the Commission.
3. The Applicant shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30th of each year *Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority*, Project No. 27357. If the SPCOA holder has any change during the year in the information requested in Section One of the annual report form, then the SPCOA holder shall file an updated form correcting the information in Section One within 30 days of the change.

¹ Administrative approval of this uncontested application has no precedential value in a future proceeding.

4. The Applicant shall provide a copy of its application and/or the Commission's Notice of Approval, in accordance with the individual entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.


5. The Applicant's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include "9-1-1" emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2003) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the Commission on State Emergency Communications, local "9-1-1" entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all "9-1-1" emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the "9-1-1" entities to pursue, in good faith, the mutually agreed goal that the local "9-1-1" entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of "9-1-1" emergency service.

6. The Applicant shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).

7. The Applicant shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST R. 26.435(e)(4).
8. The Applicant has committed to and is bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying incumbent local exchange companies (ILECs) continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of the SPCOA application does not expand the scope of the underlying ILEC's obligation to its own customers.
9. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 23rd day of September 2008.

PUBLIC UTILITY COMMISSION OF TEXAS



SONYA BATCHELOR
ADMINISTRATIVE LAW JUDGE

Donna L. Nelson
Chairman

Kenneth W. Anderson, Jr.
Commissioner

Rolando Pablos
Commissioner

Brian H. Lloyd
Executive Director



Rick Perry
Governor

RECEIVED
12 OCT 10 PM 3:21
PUBLIC UTILITY COMMISSION
FILING CLERK

Public Utility Commission of Texas

TO: Robin A. Casey
Attorney
Enoch Kever PLLC
600 Congress Ave., Ste. 2800
Austin, TX 78701

Infrastructure and Reliability Division
Legal Division

RE: **Docket No. 40735 – Application of Fiberlight, LLC for Amendment to Its Service Provider Certificate of Operating Authority**

CORRECTED NOTICE OF APPROVAL

This Notice addresses the application of Fiberlight, LLC (Fiberlight or Applicant) for an amendment to its Service Provider Certificate of Operating Authority (SPCOA) No. 60736.¹ The amendment seeks approval to expand its service area from the exchanges of Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas) and Verizon Southwest (Verizon) to the entire State of Texas. The Public Utility Commission of Texas (Commission) provided notice to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. Applicant and Commission Staff are the only parties to this proceeding. Commission Staff recommended approval of the application. The application is approved.

Statutory Findings

1. Fiberlight is a Delaware limited liability company formed on March 17, 2005, with authorization to transact business in the State of Texas as a foreign limited liability company as of May 4, 2005.

¹Application of FiberLight, LLC for a Service Provider Certificate of Operating Authority, Docket No. 31459, Notice of Approval (Sep. 8, 2005).



Printed on recycled paper

An Equal Opportunity Employer

2. Applicant currently holds SPCOA No. 60736.
3. Fiberlight currently provides data, facilities-based, and resale telecommunications services within the exchanges served by AT&T Texas and Verizon.
4. Fiberlight will continue to provide Business-Only: T-1 Private Line and Optical Services.
5. Applicant seeks approval to expand its service area from the exchanges of AT&T Texas and Verizon to the entire State of Texas.
6. Fiberlight will continue to provide at least one customer service representative per 2,500 customers during normal business hours.
7. Any equipment provided by Applicant shall be 911 compliant and local number portability capable
8. Fiberlight has established a toll-free customer service number, an office phone number, a fax number, a website address, and an email address.
9. Fiberlight was required to provide clarifying and/or supplemental technical information concerning this application for amendment regarding its status with the Texas Comptroller's Office. On September 27, 2012, Applicant filed the clarifying and/or supplemental information, which provided Fiberlight's status.
10. Combined management of Fiberlight consists of key personnel that have accumulated over 109 years of telecommunications experience.
11. Applicant has satisfied the financial qualification requirements of P.U.C. SUBST. R. 26.111 because this amendment does not result in a change to the underlying financial qualification of Fiberlight. Applicant did, however, provide financial statements for the period ending June 30, 2012, under protective order, which demonstrate substantial resources to support the amendment to its application.
12. The application complies with PURA² §§ 54.154-54.159.

² Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001-66.016 (Vernon 2007 & Supp. 2011) (PURA).

13. Fiberlight is not precluded by PURA §§ 54.152 or 54.201 from providing service under its SPCOA.
14. Pursuant to PURA §§ 54.154(b) and 54.155(b), Applicant is entitled to approval of this application, having demonstrated the required financial and technical qualifications to continue to provide existing telecommunications services and continuation of the necessary quality of service to its customers.
15. Fiberlight is currently in compliance with the filing of its 2012 CLEC Annual Report.

Compliance History

16. The Texas Comptroller's Office determined that Applicant is in good standing, not for dissolution or withdrawal, through May 15, 2013, regarding compliance with its rules and statutes.

Complaint History

17. The Commission's Customer Protection Division complaint database revealed no complaints against Fiberlight for the past 60 months.
18. Applicant filed its number of customers confidentially for the past 60 months.
19. The complaint-to-customer ratio is below six percent; therefore, no further investigation is required.
20. Fiberlight committed to continue meeting the quality of service standards as applicable.

Ordering Paragraphs

21. Fiberlight, LLC's request to amend SPCOA No. 60736 is approved.³ SPCOA No. 60736 is amended reflect the expansion of its service area to comprise the entire State of Texas. The name on SPCOA No. 60736 will remain Fiberlight, LLC.
22. Applicant shall be bound by the requirements of P.U.C. SUBST. R. 26.111. Applicant will provide service exclusively under the name approved by the Commission.
23. Applicant shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30th of each year. If

³ Administrative approval of this uncontested application has no precedential value in a future proceeding.

the SPCOA holder has any change during the year in the information requested in Section One of the annual report form, then the SPCOA holder shall file an updated form correcting the information in Section One within 30 days of the change.

24. Applicant shall provide a copy of this application and/or the Commission's Notice of Approval, in accordance with the entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.
25. Applicant's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include 9-1-1 emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2010 & Supp. 2011) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. Applicant shall diligently work with the Commission on State Emergency Communications, local 9-1-1 entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all 9-1-1 emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. Applicant shall diligently work with the 9-1-1 entities to pursue, in good faith, the mutually agreed goal that the local 9-1-1 entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of 9-1-1 emergency service.
26. Applicant shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).

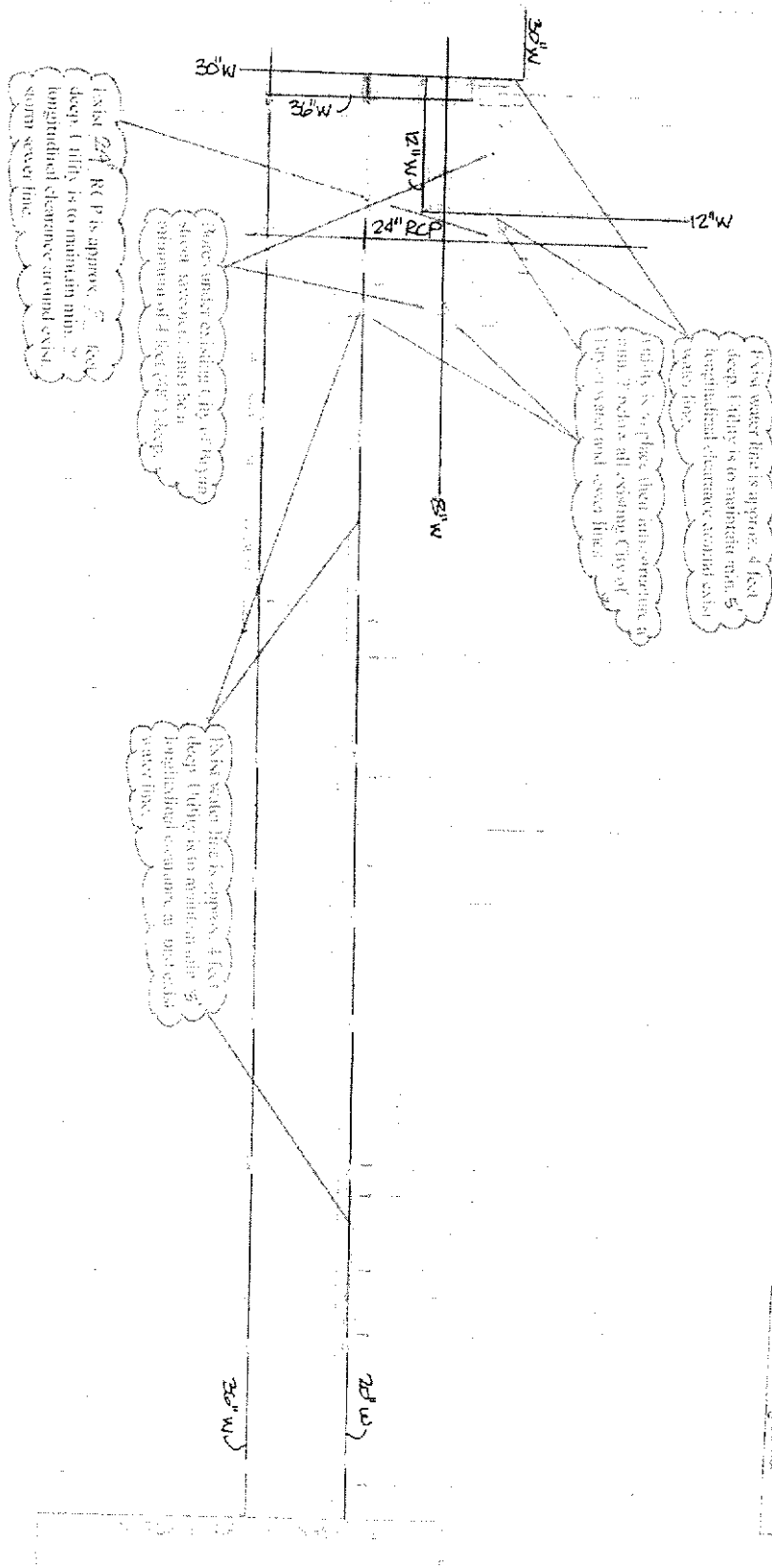
27. Applicant shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST. R. 26.435(e)(4).
28. Applicant has committed to and is bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying ILECs continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of this SPCOA application does not expand the scope of the underlying ILEC's obligation to its own customers.
29. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 10th day of October 2012.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE



Exist 24" RCP is approx. 4 feet deep. Utility is to maintain min. longitudinal clearance around exist storm sewer line.

Notes: under existing (RCP) manhole structure, must be in alignment of (RCP) deep.

Exist water line is approx. 4 feet deep. Utility is to maintain min. longitudinal clearance around exist water line.

Exist water line is approx. 4 feet deep. Utility is to maintain min. 5' longitudinal clearance around exist water line.
Utility is to place their infrastructure in min. 2' within all existing City of Denver water and sewer lines.

(1) All of the 2002-2006 Part 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

1. per report by the City (this add note examine at my location as indicated by the City inspector on your file) and location of the 12" water line is shown deep (see with approved location).

RELEASED FOR CONSTRUCTION
 APR 28 2014
 DW
 City of Denver
 Engineering Services

Utility is to place (800) manhole at min. 2' below existing City of Bryan water and sewer lines.

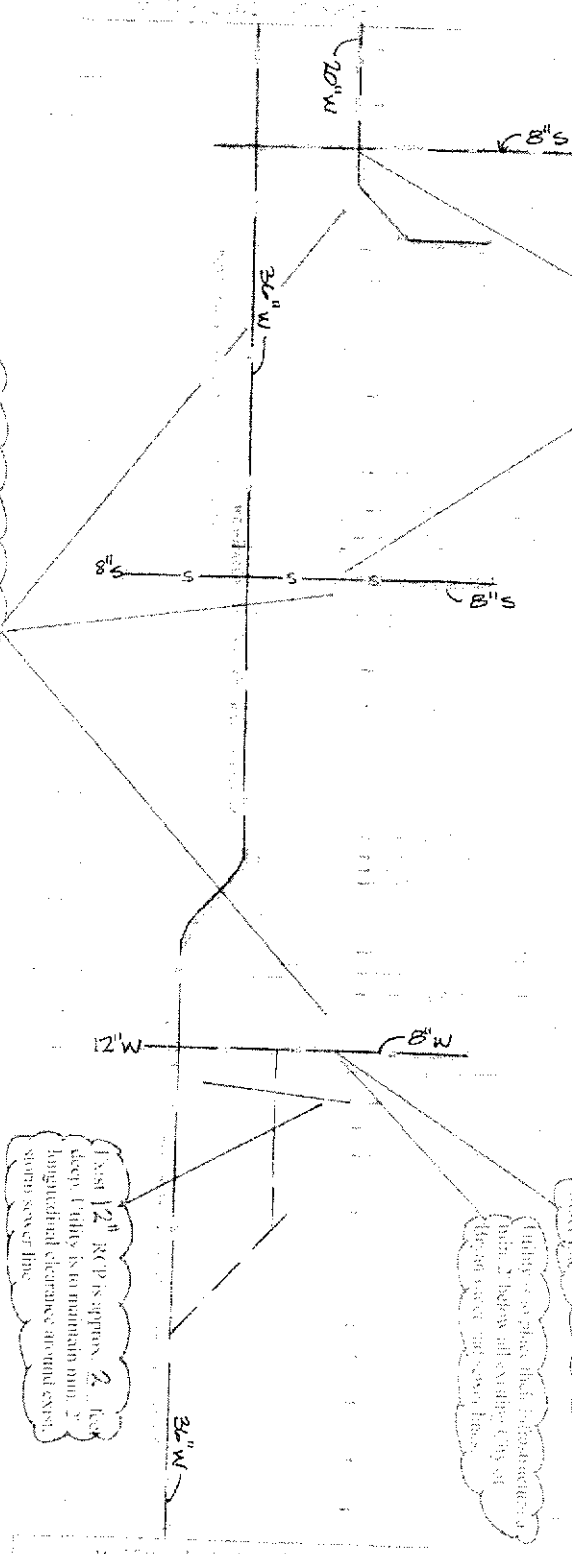
Existing sewer line is approx. 9'-8" feet deep. Utility is to maintain min. 3' horizontal clearance around existing sewer line.

There is an existing (10") storm sewer present under the 1' minimum of 4 feet (18") above.

18" water line is approx. 4 feet deep. Utility is to maintain min. 9' horizontal clearance around water line.

Utility is to place (800) manhole at min. 2' below all existing City of Bryan water and sewer lines.

Existing 12" RCP is approx. 2 feet deep. Utility is to maintain min. 2' horizontal clearance around existing sewer line.

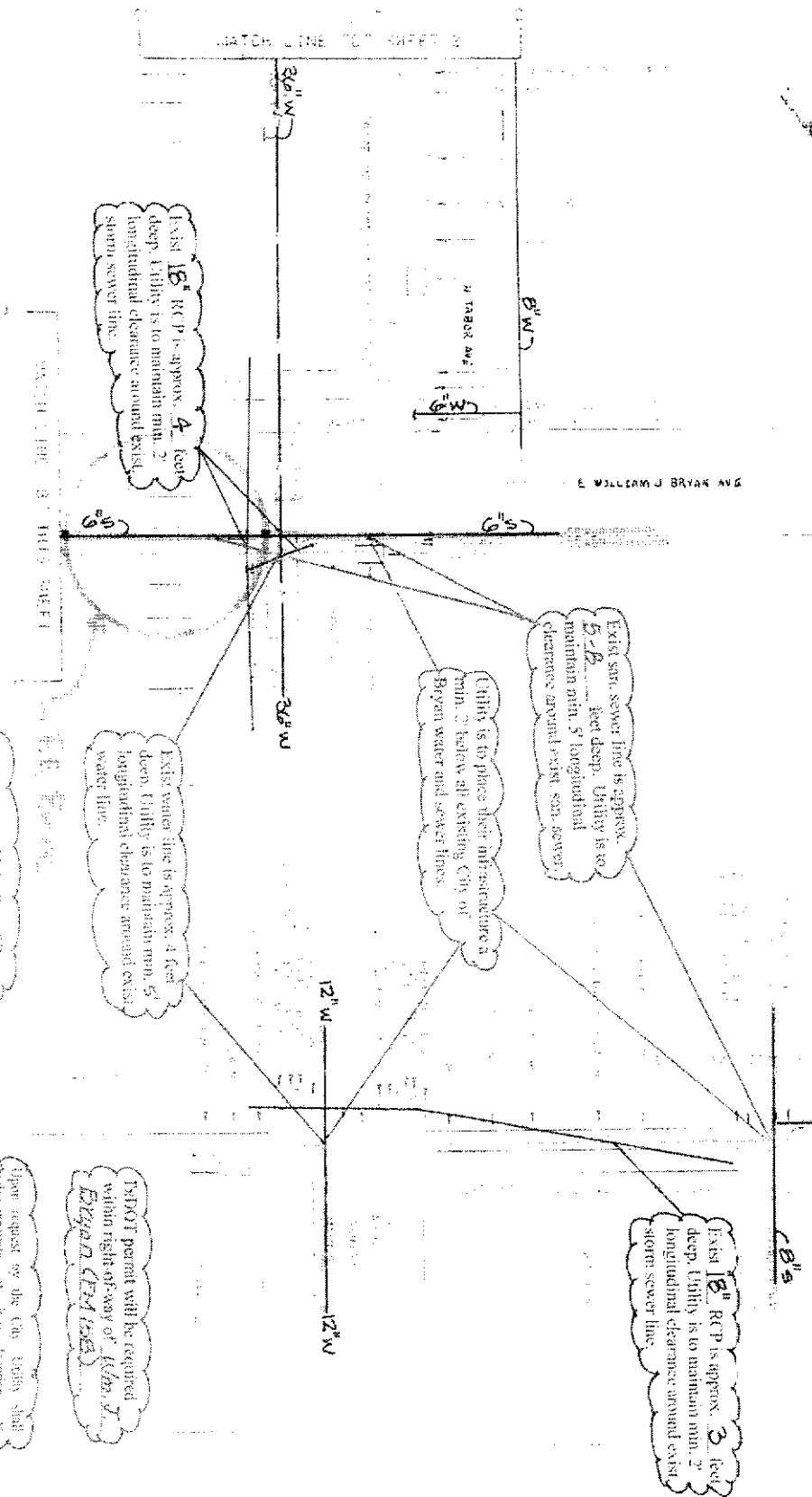


RELEASED FOR CONSTRUCTION
APR 28 2014
C.W.
City of Bryan
Engineering Services

1211

RELEASED FOR CONSTRUCTION

APR 28 2016
City of Bryan
Engineering Services



Call 979, 289-5600 for City of Bryan Water and Sewer because the City of Bryan does not participate in Dye Pass

Upon request by the City Engineer, all permits-except for all key locations as indicated by the City Inspector to verify the depth and location of installed infrastructure to ensure compliance with approved permit.

DSDOT permit will be required within right-of-way of E. William J Bryan Ave

DSMO



Consent Letter

March 21, 2013
Folder: 02790-66

**CARLA HICKS
FIBERLIGHT, LLC
11700 GREAT OAKS WAY, SUITE 100
ALPLARETTA GA 30022**

RE: Proposed construction of fiber optic wireline at Mile Post 99.77, on the Bryan Branch/Subdivision, within E 26th Street, at or near Bryan, Brazos County, Texas.

Carla:

Please refer to your application notifying the Railroad Company of the above subject construction project within a dedicated public right of way for Fiberlight, LLC (hereinafter the "Utility").

This letter will serve as notification that the engineering information submitted has been reviewed and the Railroad Company approves the proposed crossing and its installation as shown on Exhibit A print. It is understood that the Utility shall reimburse the Railroad Company for all expenses incurred by the Railroad Company for employment of flagmen, inspectors and other employees required to protect the right of way and property of the Railroad Company from damage arising out of and/or from the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the utility line. The Utility shall reimburse the Railroad Company for such expenses within thirty (30) days after presentation of bill for such expenses.

The Railroad Company has authorized the installation of fiber optic cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you should contact the Railroad Company at 1-800-336-9193 to determine if a fiber optic cable is buried on the subject property. When you or your representative enter the Railroad Company's property, a copy of this letter must be available at the site to be shown on request to any Railroad employee or official.

In order to protect the Railroad Company's property as well as for safety reasons, it is imperative that the Utility notify our Manager Track Maintenance office:

David Gitlitz - MTM
Union Pacific Railroad Company
24189 Adline Westfield Rd
Spring, TX 77373
713.577.0720, Cell 281.222.8527

Kevin Alston - MSM
Union Pacific Railroad Company
3601 McKinney St
Houston, TX 77023
713.577.0953, Cell 903.571.8017

a minimum of ten (10) days in advance of any construction on, along, or across the Railroad Company's right of way and/or tracks.

Sincerely,

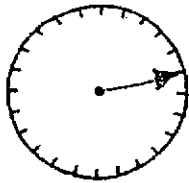


Jon E. Devish
Manager - Contracts - Real Estate
(402) 544-8563

APPLICATION FOR UNDERGROUND WIRELINE CROSSING

750 VOLTS OR LESS

PLACE ARROW INDICATING NORTH DIRECTION RELATIVE TO CROSSING



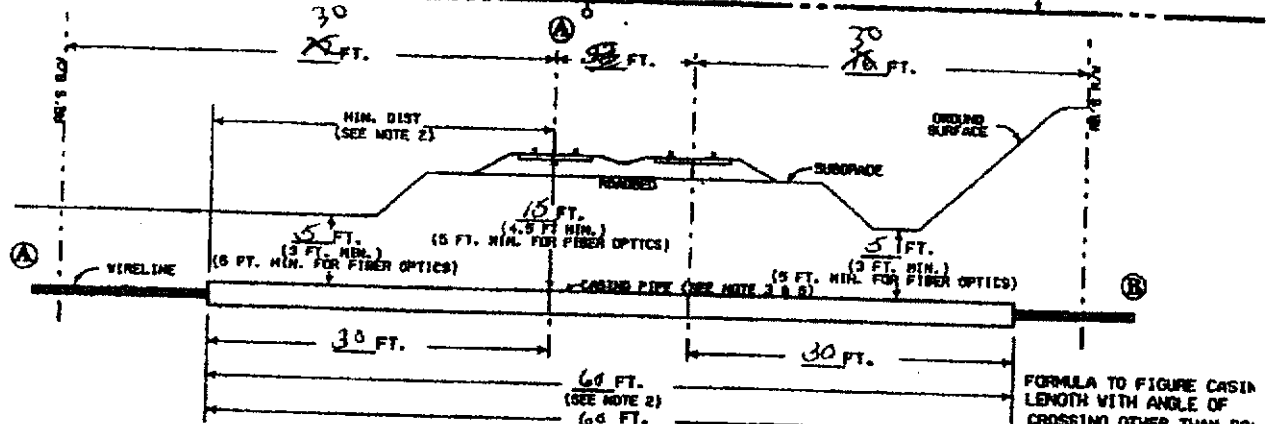
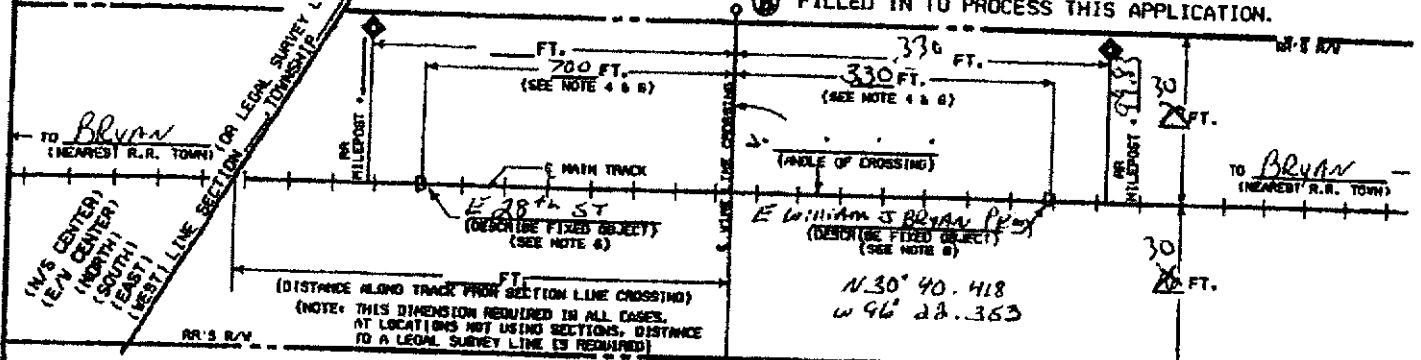
NO SCALE

SPECIFICATION EXHIBIT NO. _____

TO ACCOMPANY AND BE GOVERNED BY BLANKET AGREEMENT NO. 160431 DATED APRIL 1, 1992 BETWEEN UNION PACIFIC RAILROAD COMPANY AND SOUTHWESTERN BELL TELEPHONE COMPANY

CONSIDERATION (PRIVATE CROSSING) \$ _____

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO PROCESS THIS APPLICATION.



- NOTES:
- 1) ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM E. OF TRACK, EXCEPT AS NOTED.
 - 2) CASING MUST EXTEND A MINIMUM OF 30' OUT FROM E. OF TRACK, MEASURED AT RIGHT ANGLES.
 - 3) CASING MATERIAL: STEEL, RIGID METALLIC CONDUIT (NO PVC).
 - 4) MINIMUM OF 50" FROM THE END OF ANY RAILROAD BRIDGE, E. OF ANY CULVERT, OR FROM ANY SWITCHING AREA.
 - 5) SIGNAL REPRESENTATIVE MUST BE PRESENT DURING INSTALLATION IF RAILROAD SIGNALS ARE IN THE VICINITY OF CROSSING.
 - 6) ALLOWABLE FIXED OBJECTS INCLUDE: BACKWALLS OF BRIDGES; E. OF ROAD CROSSINGS & OVERHEAD VIADUCTS (GIVE ROAD NAME); OR E. OF CULVERTS.
 - 7) CASING AND CARRIER PIPE MUST BE PLACED A MINIMUM OF 2 FEET BELOW THE EXISTING FIBER-OPTIC CABLE. ANY EXCAVATION REQUIRED WITHIN 5 FEET OF THE EXISTING FIBER OPTIC CABLE MUST BE HAND DUG.

A) IS WIRELINE CROSSING WITHIN DEDICATED STREET? YES; NO;

B) IF YES, NAME OF STREET E 28th ST

C) TYPE WIRELINE CROSSING: TELEPHONE _____ TELEVISION _____ FIBER OPTIC; OTHER _____

D) VOLTAGE TO BE CARRIED UNDER TRACK _____ NO. OF WIRES 1

E) CASING TYPE TO BE INSTALLED 4" HDPE SDR-11

F) METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):
 DRY BORE AND JACK (WET BORE NOT PERMITTED);
 TUNNEL; OTHER PIERCEMENTAL BORE

G) DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 30' (30' MIN.)

H) DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) 788'

I) APPLICANT HAS CONTACTED _____ OF U. P. COMMUNICATION DEPARTMENT AND HAS DETERMINED FIBER OPTIC CABLE _____ DOES; _____ DOES NOT; _____ EXIST IN VICINITY OF WORK TO BE PERFORMED. Ticket #

UPRR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX!

UNION PACIFIC RAILROAD CO.

Bryan

M.P. 9977 (MILEPOST) E.S. 5266+62B

Bryan Brazos JX

(NEAREST RR STATION) (COUNTY) (TOWN)

RR FILE NO. 2790-66 DATE 3-19-93

WARNING

IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-800-338-9190

SOUTHWESTERN BELL TELEPHONE/AT & T

BY: _____

TITLE: _____

UNION PACIFIC RAILROAD CO.

BY: _____

TITLE: _____

CONTRACTS REPRESENTATIVE

Phoenix Installation Services

PO Box 459
Lavon, TX 75166



Invoice

Date	Invoice #
4/30/2014	14-0140

Bill To
FiberLight, LLC 11700 Great Oaks Way Suite #100 Alpharetta, GA 30022

P.O. No.	Terms
	Net 45

Item	Quantity	Description	U/M	Rate	Amount
1	2	Demobilization and Remobilization per underground crew Railroad bore in downtown Bryan at 26th St. - UPRR		2,400.00	4,800.00
Address for overnight payments: 9975 High Country Lane Forney, TX 75126				Total	\$4,800.00

Cause No. 14-001161-CV-272

UNION PACIFIC RAILROAD COMPANY <i>Plaintiff,</i>	§ § § § § § §	IN THE DISTRICT COURT OF
v.		BRAZOS COUNTY, TEXAS
FIBERLIGHT, LLC <i>Defendant.</i>		272nd JUDICIAL DISTRICT

AFFIDAVIT OF TONY D. CASH

Before me, the undersigned notary, on this day personally appeared Tony D. Cash, a person whose identity is known to me. After administering an oath upon him, upon his oath he said:

1. My name is Tony D. Cash. I am over the age of 18 years, have never been convicted of a felony, and am otherwise competent to be a witness. I have personal knowledge of the facts stated in this Affidavit and they are true and correct.

2. I am the Senior Vice President and General Counsel for FiberLight, LLC ("FiberLight"), a Delaware limited liability corporation, authorized to do business in the State of Texas.

3. As Senior Vice President and General Counsel, I have been involved in overseeing the installation of FiberLight's network in Texas, including in Brazos and Robertson County.

4. In March 2013, I became aware that one Union Pacific Railroad Company ("UPRR") employee went so far as to damage FiberLight's property by pulling out a conduit that was already installed, causing significant damage to FiberLight. FiberLight confronted UPRR concerning this theft and damage to the conduit, and UPRR agreed to reimburse FiberLight for the damage. Attached hereto as **Exhibit A** is a true and correct

copy of the letter I sent to Union Pacific concerning the theft and damages to a FiberLight conduit in Hearne, Texas caused when a UPRR employee went so far as to damage FiberLight's property by pulling out a conduit that was already installed.

5. Following this incident, FiberLight and UPRR were able to reach a settlement concerning the damages caused by UPRR's employee's removal of FiberLight's conduit and fiber. Attached hereto as **Exhibit B** is the *Full and Final Release of Property Damage Claim by FiberLight, LLC against Union Pacific Railroad Company*.

6. It was during the discussions concerning this damage that FiberLight and UPRR began to work towards negotiating an agreement for handling installations under UPRR's railway tracks. While FiberLight contends it is entitled to proceed in the public right-of-way with UP approval, it hoped to negotiate an agreement that would be efficient and beneficial to both parties. Those negotiations broke down when UPRR insisted on unreasonable requirements, without any basis in the law, such as flagmen at every installation and unreasonable fees for as much as \$2500 per crossing.

7. I have had prior experiences in my work with FiberLight where an open-ended agreement for a flagman at every installation has resulted in an unreasonable amount of fees. Attached hereto as **Exhibit C** is a true and correct copy of the invoice received by FiberLight for the one-time use of a flagman at one installation. The billed amount to FiberLight for employing that flagman was over \$18,000.

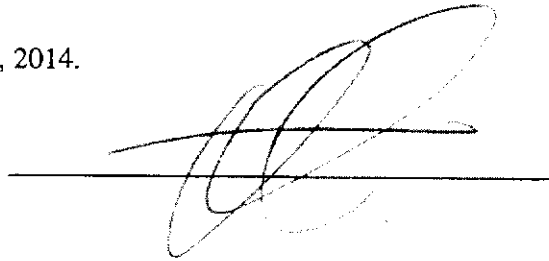
8. The losses FiberLight is experiencing and will experience from the ex parte temporary restraining order and possible temporary injunction in the above-named cause are significantly more than the \$5000 bond posted by UPRR. Under its contract

with Verizon Wireless, FiberLight has significant deadlines and a set schedule of installation that it must keep up with in order to provide a network to its customers in a timely manner. If FiberLight cannot meet its schedule because of obstructions from others such as UP, it faces nearly five million dollars in delay penalties owed to Verizon. Interference with just one installation can substantially interfere with the creation of the network.


9. FiberLight is experiencing at least \$10,000 a day in damages based on the delay of the installation of all its facilities in Brazos County. UPRR's actions have caused FiberLight significant damages because of its direct interference with this installation, where contractors were already at the scene, not to mention the \$10,000 a day for the ex parte restraining order in effect since May 2, 2014.

Further affiant sayeth not.

Executed on this 16th day of May, 2014.



SUBSCRIBED AND SWORN TO BEFORE ME on this the 16th day of May, 2014.


NOTARY PUBLIC, State of ~~Texas~~ Georgia

My Commission Expires: 8/2/2015



Tony D. Cash
Senior Vice President and General Counsel
11700 Great Oaks Way, Suite 100
Alpharetta, Georgia 30022
Tel. 678.824.6625
tony.cash@fiberlight.com

October 17, 2013

VIA OVERNIGHT COURIER

Ms. Gayla Thal
Senior Vice President – Law and General Counsel
Union Pacific Railroad
1400 Douglas Street
Omaha, NE 68179

RE: FiberLight, LLC dispute with UPRR relating to railroad crossings at Connection Street and N San Jose Street in Hearne, Texas

Dear Ms. Thal,

I am contacting you regarding a dispute which arose between our company and Union Pacific Railroad ("UPRR") relating to the two railroad crossings stated above. On October 15, 2013, while our crew was attempting to bury fiber optic cable in a public right-of-way at Connection Street which intersected UPRR tracks, they were approached by employees of UPRR demanding that the work stop and threatening to have our crew arrested for trespassing. The comments from the UPRR employees were incendiary and threatening in nature. Our team presented documentation to the UPRR representatives on site demonstrating:

1. FiberLight is the holder of a Service Provider Certificate of Authority (SPCOA) for the State of Texas and, as such, was legally within its rights to be on the right-of-way.
2. The specific RR crossing at Connection Street is listed in the Federal Listing of Public Highway Railroad crossings as being in a USDOT right-of-way. We presented the USDOT Crossing Inventory information for this crossing as of August 8, 2013.
3. We had filed our application with UPRR for this crossing on August 9, 2013, sixty days ahead of the crossing which exceeded the 30-45 day requirement stated at the top of the UPRR Crossing Application.
4. The fiber was within the public right-of-way as shown on maps prepared by our engineers, Byers Engineering Company.

The UPRR representatives were very hostile toward our crew and would not accept any of the above documentation which authorized our crossing. Someone at UPRR reported the crossing to the

Robertson County Police who arrived at the scene and shut down the job until they could confer with the Robertson County District Attorney regarding the legality of the crossing. I discussed this with the Robertson County District Attorney, Robert Yezak, and sent him the documentation mentioned above. I have attached a copy of his email which I received yesterday stating that he would not prosecute a certificated fiber optic contractor crossing a railroad in a public right-of-way.

I was later informed by our Project Manager that Mr. Andrew D. Hudanish (business card attached), a UPRR representative, arrived at the Connection Street job site subsequent to the police visit and began screaming obscenities at our crew and stated that: "We [UPRR] have pulled out your pipe [conduit] at the N San Jose Street crossing" which was buried by our crew a few days prior. Mr. Vincent Sallie, the FiberLight Project Manager, visited the site of the N San Jose Street crossing and confirmed this to be true. The conduit had been pulled out and taken away without the authorization of FiberLight.

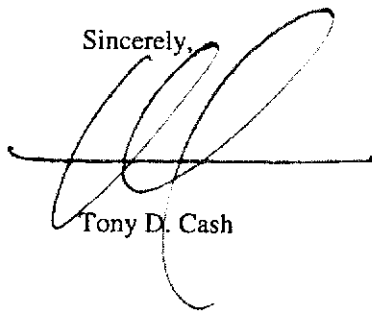
FiberLight demands that UPRR employees refrain from all future confrontations of this kind with FiberLight employees and contractors and that UPRR compensate FiberLight for the damage to and theft of its conduit at the N San Jose Street crossing and for the delay caused to the crossing at Connection Street. I can provide the details of our damages in a separate correspondence.

I am also contemplating filing a criminal complaint with the Robertson County police against UPRR and Mr. Hudanish personally for theft and taking of our conduit. I will hold this action in abeyance for ten days until I receive a response from you which satisfactorily addresses FiberLight's demands as stated herein.

This is inexcusable behavior for any professional company especially a national common carrier. I trust that UPRR will choose to do the right things to remedy this situation and avoid future incidents of this type.

If you have questions or would like additional information on this matter, please advise.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony D. Cash", is written over a horizontal line. The signature is stylized and cursive.

Tony D. Cash

From: Robert Yezak [mailto:yezak@robertsoncounty.org]
Sent: Wednesday, October 16, 2013 5:07 PM
To: Tony Cash
Subject: RE: Public Right of Way Information on RR crossings in Hearn, Texas - Case # hp13003800

Dear Mr. Cash,

I informed a representative of the Union Pacific that our office considered the matter civil and that we would not prosecute any fiber optic contractor for being on RR property. The local official stated your application to the home office had not been approved yet. I notice their form requests 30 to 45 days notice and that your request went to them over 60 days ago. Our office did ask the Hearne Police department to rescind any criminal trespass warning they had issued to your people.

Robert Yezak, Assistant County and District Attorney

From: Tony Cash [mailto:tony.cash@fiberlight.com]
Sent: Tuesday, October 15, 2013 2:53 PM
To: yezak@robertsoncounty.org
Subject: FW: Public Right of Way Information on RR crossings in Hearn, Texas - Case # hp13003800

Robert,

As discussed, I am sending you our documentation showing USDOT Public Right-of-Way status of the Connection Street and N San Jose Street railroad crossings in Hearn, Texas. Both crossings are listed in the Federal Listing of Public Highway Railroad crossings (see attached USDOT Listings). The public designation lasts forever unless removed by court decision. I have also attached our applications to Union Pacific with attached drawings showing the fiber optic cable run within the public road right-of-way. FiberLight holds a Texas Service Provider Certificate of Authority (SPCOA attached) which authorizes it, inter alia, to construct and maintain its fiber optic cables on public rights-of-way in Texas. FiberLight has undertaken numerous network projects, including our largest build in the state of Texas, of which consists of 8,000 miles of fiber and a 100 Gig long-haul network between Dallas/Ft. Worth, Austin, San Antonio and Houston. We would appreciate your assistance in allowing our construction crew to immediately resume work at the Connection Street and N San Jose Street railroad crossings. Please contact me if I can provide further information.

Thank you,
Tony

Tony D. Cash
Senior Vice President and General Counsel

FiberLight

11700 Great Oaks Way
Suite 100
Alpharetta, GA 30022
Tel 678.824.6625
Fax 678.366.0412
Cell 404.281.3377
e-mail: tony.cash@fiberlight.com
<http://www.fiberlight.com>

Please do not send confidential, proprietary, or otherwise sensitive information via e-mail. E-mail is not a secure form of communication and may not be protected by the attorney client privilege. Communication via e-mail does not establish an attorney-client relationship. Any information in any e-mail message from me or my office is intended for general informational purposes and is not intended to be, and shall not be relied upon, as legal advice. No information in an e-mail is a substitute for a personal consultation with an attorney.

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Circular 230 Notice: Pursuant to recently-enacted U.S. Treasury Department regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.



BUILDING AMERICA

Andrew D. Hudanish

**Manager of Industry & Public Projects
Southern Region - Engineering**

P 281 350 7626

F 402 271 5129

C 832 656 6964

adhudani@up.com

UNION PACIFIC RAILROAD

24125 Old Aldine Westfield Rd.

Spring, TX 77373-9015

www.up.com

UPRR Claim: 906356
Party: FiberLight, LLC
Date of Loss: October 15, 2013
Loss Location: Hearne, (Robertson County) Texas N. San Jose Street Crossing

Full and Final Release of Property Damage Claim by FiberLight, LLC against Union Pacific Railroad Company

In consideration of payment in the amount of **Thirty Thousand – Two Hundred Four Dollars and Eighty Seven Cents (\$ 30,204.87)**, FiberLight LLC , hereby releases and forever discharges Union Pacific Railroad Company and all other parties whomsoever, from any and all claims and liability of every kind and nature, including loss and damage to property in connection with or arising from an incident in which FiberLight's cable was pulled out of the ground and damaged at Hearne,(Robertson County) Texas, N. San Jose Street crossing on or about the date of October 15, 2013. This claim also releases Union Pacific Railroad from any and all subrogation or liens of any kind and nature, which are known or unknown at the present time in connection with the aforementioned incident.

The payment of the above sum is made and accepted in settlement of our claims and not an admission of fault or liability.

The payment of the above sum is the only consideration for this release. No other promises have been made to us in connection with this settlement.

The undersigned acknowledges that the terms of this Release are fully understood and that this Release is given voluntarily for the purpose of making a full compromise and settlement of this claim between Union Pacific Railroad and FiberLight LLC.

This Release is hereby executed on this the 10th day of April, 2014, at
Alpharetta (city), Georgia (state).


Signature

Kimberly Rohalt
Printed Name

Corporate Counsel
Title


Witness 1 signature


Witness 2 signature



Invoice

Bill No. : 9031401
Bill Date : 28-APR-14
Billed Through : 23-APR-14
Customer No. : 106562
Project No. : CS0849

FIBERLIGHT LLC
 ATTN: CHRIS PANCIONE
 11700 GREAT OAKS WAY
 SUITE 100
 ALPHARETTA GA 30022

CSX Federal ID No. : 54 - 6000720
Work Site : DERWOOD, MD
Project Description : CE&I SERVICES FOR SUB-GRADE INSTALLATION OF 8" STL CASING WITH (4) 1.50" HDPE SDR11 INNERDUCTS VIA HDD IN 3 LOCATIONS IN MD (DERWOOD, GERMANTOWN & GAITHERSBURG; MP BA 18.80, BA 26.04 & BA 21.92; CSX695794, CSX695792 & CSX695767)

<i>Item Description</i>	<i>Total Amount</i>
212 INVOICE-CONTRACT ENG	\$18,161.71
Invoice Total :	\$18,161.71
Balance Due This Invoice :	\$18,161.71

Lock Box Address (payments only)

CSX Transportation, Inc.
 PO BOX 116628
 ATLANTA GA 30368-6628

Balance Due This Invoice : **\$18,161.71**
Due Date : 28-MAY-14
Payment Terms : 30 NET

If you have any questions regarding this invoice, please contact Outside Services at OutsideServices@csx.com or call 904-279-3889. Send email correspondence to 6737 Southpoint Drive South, CSX Bldg 1 J-180, Jacksonville, FL 32216

UNION PACIFIC RAILROAD COMPANY <i>Plaintiff,</i>	§ § § § § § § §	IN THE DISTRICT COURT OF BRAZOS COUNTY, TEXAS 272nd JUDICIAL DISTRICT
v.		
FIBERLIGHT, LLC <i>Defendant.</i>		

AFFIDAVIT OF DAVID L. THOMAS

Before me, the undersigned notary, on this day personally appeared David L. Thomas, a person whose identity is known to me. After administering an oath upon him, upon his oath he said:

1. My name is David L. Thomas. I am over the age of 18 years, have never been convicted of a felony, and am otherwise competent to be a witness. I have personal knowledge of the facts stated in this Affidavit and they are true and correct.

2. I am the president and a managing member of Eagle 1 Resources, LLC, located at 2572 Weston Street, Auburn, AL. 36832. Eagle 1 Resources, LLC is a strategic planning company which provides consultant management services to the utility industry. I have thirty five years of experience in the utility industry. My resume is attached hereto as *Exhibit A*.

3. For many decades, I have worked with various utility clients to investigate and determine the true ownership of the property presently being utilized by the railroads. My research on these projects has extended as far back as the mid-1800's during the growth of the railroad community and the government land grants provided to the railroads during this expansion era. I have extensive knowledge and experience, over twenty years, concerning authentication of railroad ownership issues and assistance with

the removal of annual crossing rental fees or encroachment fees which are unsupported by any legal property right

4. The railroad industry has certain requirements to maintain the safety of their facilities. This is a checklist of depths, material used, and/or other installation guidelines. Our office maintains a file of each railroad nationwide to insure any installation meets and/or exceeds the minimum requirements. As a rule, we review the American Railway Engineering and Maintenance-of-Way Association Standards because these requirements are the most stringent and provide the highest level of safety. I have worked in the utility industry for over 35 years. As an example of our installation procedures, Norfolk Southern Railroad, pleased with our recommendations, incorporated those recommendations as part of their standard installation requirements.

5. My company was retained by Fiberlight, LLC to assist with the planned installation of a fiber optics wire line within the limits of 26th Street Right of Way at the US AAR/DOT Crossings of Union Pacific Railroad Company, Bryan, Brazos County, Texas, USDOT Crossing # 743198M, mile post 99.76.

6. Based upon my review of the proposed plan, cross-section, and specifications of the project developed by Osmose Communications Services, this installation will be an underground 4" HDPE Conduit with a Fiber Optics cable installation. The bore pits are to be located outside the Union Pacific Railroad Company right of way. A true and correct copy of the proposed plan, cross-section, and specifications is attached as *Exhibit B*.

7. The proposed installation, as demonstrated in *Exhibit B*, far exceeds the requirements of the American Railway Engineering and Maintenance-of-Way

Association Standards based upon my review of the standards themselves and the proposed plan.

8. I have reviewed the land records of the property relevant to location of the installation, and they indicate that the crossing is located in a public road which is maintained by the City of Bryan. Based upon my review of the land records, the proposed installation will be within the public roadway limits of 26th Street in Bryan, Brazos County, Texas. A true and correct copy of the pertinent land records are attached hereto as *Exhibit C*.

9. I personally have researched the Federal Interstate Commerce Commission Valuation Orders in the National Archives at College Park, Maryland, and found a copy of Form #107 under Interstate Commerce Commission Order #7, issued November 21, 1914, for this location. The location of installation is identified as parcel #157 with a "Date of Dedication to Public Use" as of 1859. On Monday, May 12, 2014, I personally viewed the Valuation Orders in the National Archives at College Park, Maryland and photographed all of the pages for Valuation Order #7, attached hereto as *Exhibit D*. On page 1 of this exhibit is the page relevant to this location, parcel #157, noting the "Date of Dedication to Public Use" as 1859.


10. On February 28, 2014, I personally researched and printed the USDOT Inventory records for this location from the website <http://safetydata.fra.dot.gov/OfficeofSafety/PublicSite/Crossing/Crossing.aspx>. As illustrated by those records, the location of installation has been documented as a public highway railroad crossing since February 18, 1982. A true and correct copy of those records as I viewed them on the website are attached as *Exhibit E*.

11. On behalf of Fiberlight, LLC, I have been in contact with Union Pacific Railroad Company since February 28, 2013 concerning the installation at this location. Our initial timeline of the project was to move forward with the installation in April of 2013, but that timeline has been delayed significantly based on the insistence of Union Pacific Railroad Company that it is entitled to certain fees, including the unrestricted use of flagmen, that in my opinion and based upon my research are not based upon any property right ownership. Attached hereto as *Exhibit F* are true and correct copies of my correspondence with Union Pacific Railroad on behalf of Fiberlight, LLC.

12. On behalf of Fiberlight, our goal was to move this project forward and install the safest project possible. We have exceeded the requirements of the American Railway Engineering and Maintenance-of-Way Association Standards. Our installation bore pits are located outside of the railroad corridor. This is a below ground installation with no equipment located within the 25 foot "safe zone" under railroad industry standards. The bore installation is tracked by electronic equipment to determine the installation will be installed at the proper depth, which involves only one FiberLight employee actually crossing the tracks.

Further affiant sayeth not.

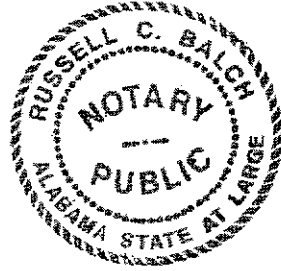
Executed on this 16th day of May, 2014.


David L. Thomas

SUBSCRIBED AND SWORN TO BEFORE ME on this the 16th day of May, 2014.


NOTARY PUBLIC, State of Alabama

My Commission Expires: 3/1/16



Resume - David L. Thomas

Telephone: Office - 334. 209.0508 Mobile - 334.546.8166

Email: dthomas@eagle1resources.com

Web: www.eagle1resources.com

Education: MBA - Auburn University at Montgomery: 1998

BS: Management - Auburn University at Montgomery: 1983

Registration: Federal Lobbyist – US Senate / US House of Representatives

Leadership Training:

Dale Carnegie Graduate
Kiwanis / Project Director

Leatherman Leadership Graduate
United Way Campaign

Board of Directors – YMCA
PTO President

Experience:

Risk Management
Compensation Design
Capital/O&M Budgeting
Vendor Management
PC Program Development
Mainframe System Design

Union Administration /Negotiation
Strategic Planning
Cost / Benefit Analysis
Railroad Fee Investigation
MS Publisher
Safety Director

API B31 Code
DOT 49 / 192
MS Office
Inventory Manager
Project Management
Marketing Director

Performance Factors:

- Served as Internal Consultant for special projects including risk management / analysis, gas main relocation, system enhancement, & long-term system design.
- Compiled, analyzed, implemented, and monitored all budgets. (Including Capital, Operation & Maintenance, and Payroll budget.)
- Evaluated vendors/new technology for productivity enhancement.
- Enhanced problem-solving skills during union contract negotiation.
- Designed / installed natural gas projects (\$350,000 - \$2 Million).
- Maintained compliance with DOT/O&M/PSC/Client regulations.
- Developed new client base and increased market share of existing client base with cross sell program of existing services.

Resume - David L. Thomas

Productivity programs:

- **Think** **Outside the Box** employee empowerment program
- Overtime tracking system; Employee cross-training programs; Self-directed work teams,

Work History:

President / Owner – Eagle 1 Resources: April 2004 to Present

Strategic Planning / Subsurface Utility Consultant / Railroad Fee Investigation

Consultant – CH2M HILL Engineering: May 2001 to April 2004

Project Development / Delivery
Cost Motivated Installation Management
Safety Program Development / Management
Risk Management / Long Term Risk Analysis,
Client Employee Development / Job Function Design

Director – ADL INC. Engineering Services: August 1999 to May 2001

Project Development / Risk Management
Cost Management / Client Job Function Development

Consultant: August 1997 to August 1999 (While Completing MBA Program)

Provided expert evaluations and reviewed daily operating system for pending legal issues. Provided operating and management services (Natural Gas Operations) as needed for developing and existing projects. Maintained existing PC networks and developed long-term growth strategies. Installed and configured existing office systems to maintain/improve productivity. Office integration / design of digital equipment in replacement applications. Provided PC and Network support services.

Alagasco - Montgomery, Selma, Birmingham – May 1976 to August 1997

Responsible for daily operations of construction / maintenance department with 49 employees and 100,000-customer base service area. Reviewed existing programs and implemented adjustments to improve productivity. Responsible for daily operation of the Engineering, Construction, Distribution, and Warehouse operations. Developed training programs for safety / emergency procedures. Accident investigator for district operations. Responsible for the design, installation, and start up of all engineering work.

References: Available Upon Request

Effective Date: January 1, 2014

APPLICATION

(Please allow 30-45 days for crossings and 90-120 days for encroachments)

1. Name of Licensee FIBERLIGHT
(Exact Name of the Owner of the Utility)

State of Incorporation DE; if not incorporated, please list entity's legal status

2. Address, email, phone and Fax number of Licensee

Contact Name: CHARLES HICKS

Address: 11700 GREAT OAKS WAY SUITE 100 FLYNNHILL TX 75021

Email: CHARLES.HICKS@FIBERLIGHT.COM Phone 678.347.9258 Fax _____

3. Name, address and phone number of individual to whom agreement is to be mailed if different than Item 2.

DAVID PATRICK (EMERSON COMMUNICATIONS) 9101 ARCADE ST SUITE #7 MANASSAS VA 71201

4. Contact information for individual to contact in the event of questions.

DANIE THOMAS, 12701 2 RESOURCES LLC

Email DTHOMAS@EMERSON.COM Phone 334.546.5166 Fax _____

5. Location of installation -

Blaine, BRAZOS COUNTY, TEXAS
(City, County and State)

_____ Ft (N), (S), (E), or (W) of the (N), (S), (E), (W) or (center) line of

Section _____; Township _____ (N), (S); Range _____ (E), or (W)

* Texas applications, provide local Survey detail MCD, L.R. ASSOCIATES 289128

6. Do you have an existing agreement at this location with Union Pacific that is affected by this request.

No () Yes, Union Pacific's Audit No. or Folder No. _____

7. Is this installation a crossing or an encroachment _____ or both _____

8. Will this facility serve Union Pacific Railroad? Yes No _____

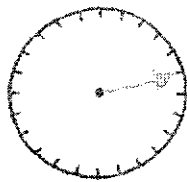
UNION PACIFIC RAILROAD
1400 DOUGLAS STREET MS 1690
OMAHA NE 68179

NOTED 7/25/08
IN THE OFFICE OF RECORDS

APPLICATION FOR UNDERGROUND WIRELINE CROSSING

750 VOLTS OR LESS

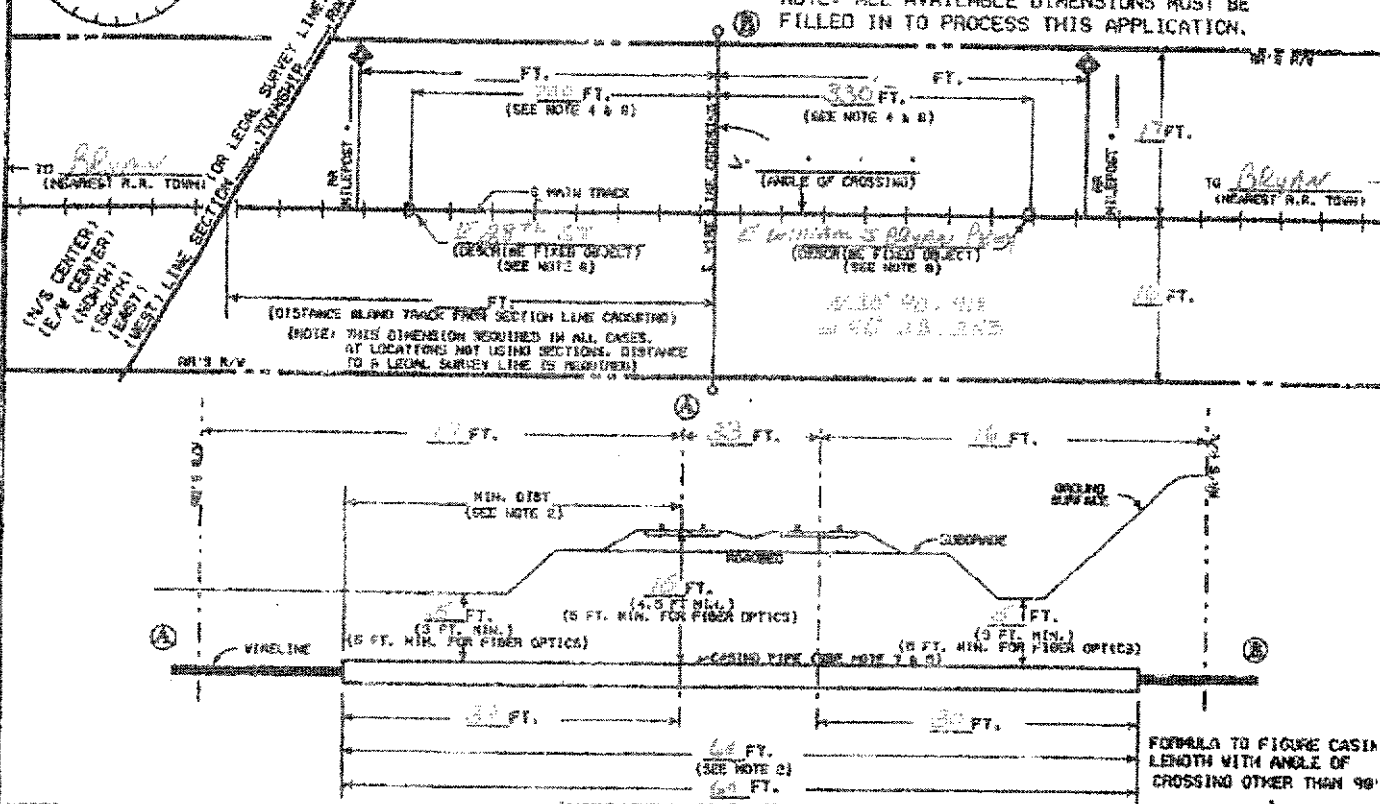
PLACE ARROW INDICATING NORTH DIRECTION RELATIVE TO CROSSING



NO SCALE

SPECIFICATION EXHIBIT NO. _____
 TO ACCOMPANY AND BE GOVERNED BY BLANKET AGREEMENT NO. 150431 DATED
 APRIL 1, 1992 BETWEEN UNION PACIFIC RAILROAD COMPANY AND SOUTHWESTERN
 BELL TELEPHONE COMPANY -
 CONSIDERATION (PRIVATE CROSSING) \$ _____

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO PROCESS THIS APPLICATION.



- NOTES:
- 1) ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM E. OF TRACK, EXCEPT AS NOTED.
 - 2) CASING MUST EXTEND A MINIMUM OF 30' OUT FROM E. OF TRACK, MEASURED AT RIGHT ANGLES.
 - 3) CASING MATERIAL: STEEL, RIGID METALLIC CONDUIT (NO PVC).
 - 4) MINIMUM OF 50' FROM THE END OF ANY RAILROAD BRIDGE, E. OF ANY CULVERT, OR FROM ANY SWITCHING AREA.
 - 5) SIGNAL REPRESENTATIVE MUST BE PRESENT DURING INSTALLATION IF RAILROAD SIGNALS ARE IN THE VICINITY OF CROSSING.
 - 6) ALLOWABLE FIXED OBJECTS INCLUDE: BACKWALLS OF BRIDGES; E. OF ROAD CROSSINGS & OVERHEAD VIADUCTS (GIVE ROAD NAME), OR E. OF CULVERTS.
 - 7) CASING AND CARRIER PIPE MUST BE PLACED A MINIMUM OF 2 FEET BELOW THE EXISTING FIBER OPTIC CABLE. ANY EXCAVATION REQUIRED WITHIN 5 FEET OF THE EXISTING FIBER OPTIC CABLE MUST BE HAND DUG.

A) IS WIRELINE CROSSING WITHIN DEDICATED STREET? YES; NO;

B) IF YES, NAME OF STREET W. 10th St

C) TYPE WIRELINE CROSSING: _____ TELEPHONE: _____ TELEVISION: _____ FIBER OPTIC: _____ OTHER: _____

D) VOLTAGE TO BE CARRIED UNDER TRACK _____ NO. OF WIRES _____

E) CASING TYPE TO BE INSTALLED 3" rigid metallic conduit

F) METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):
 _____ DRY BORE AND JACK (WET BORE NOT PERMITTED);
 _____ TUNNEL; OTHER Hand dug

G) DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 30' (30' MIN.)

H) DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) 300'

I) APPLICANT HAS CONTACTED _____ OF U. P. COMMUNICATION DEPARTMENT AND HAS DETERMINED FIBER OPTIC CABLE _____ DOES; _____ DOES NOT; _____ EXIST IN VICINITY OF WORK TO BE PERFORMED. Ticket #

FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX

UNION PACIFIC RAILROAD CO.

M.P. _____ (MILEPOST)

H.P. _____ (HOURS)

RR FILE NO. _____ DATE _____

WARNING

IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLES.

PHONE: 1-800-328-9110

SOUTHWESTERN BELL TELEPHONE/AT & T

BY: _____

TITLE: _____

UNION PACIFIC RAILROAD CO.

BY: _____

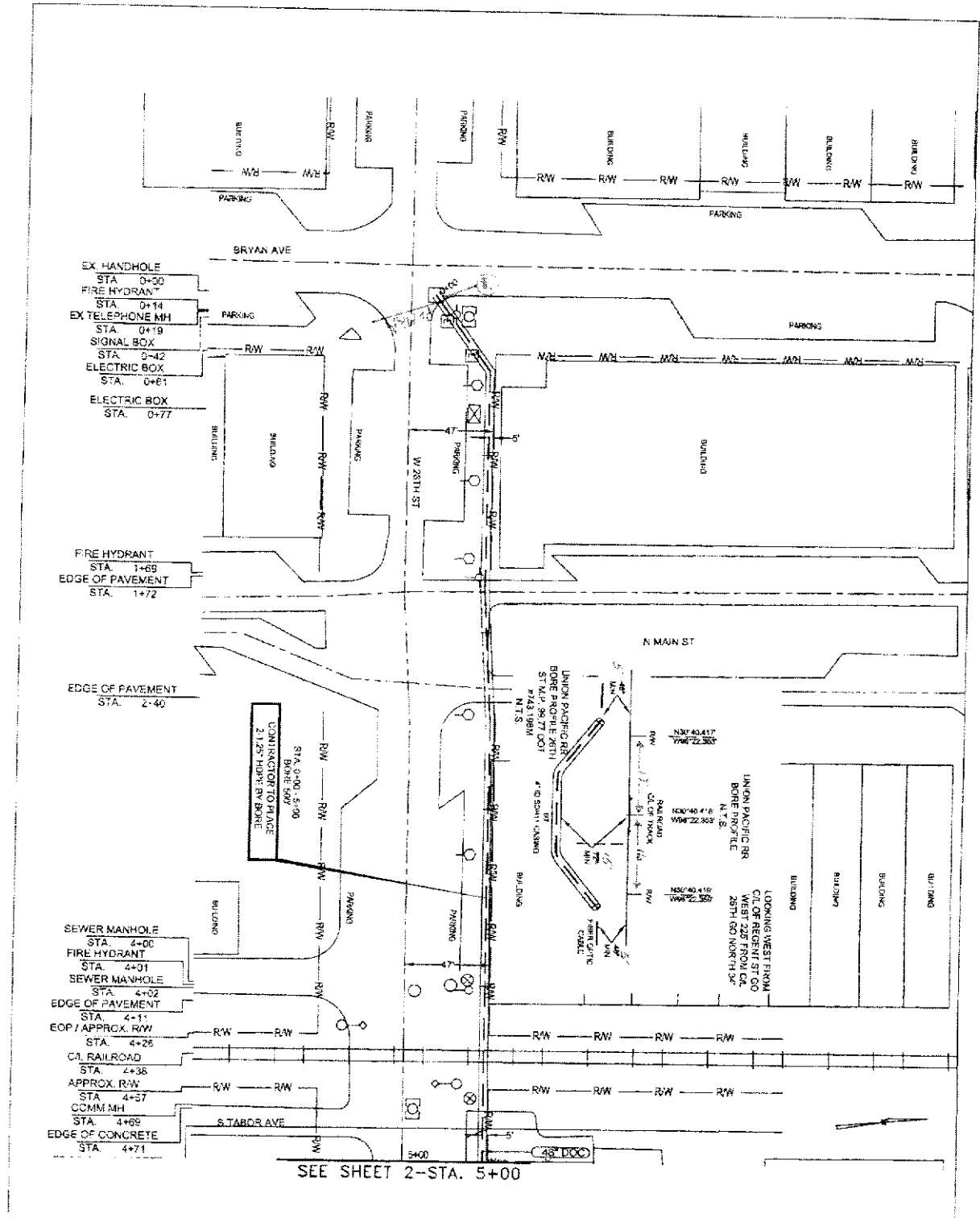
TITLE: _____

CONTRACTS REPRESENTATIVE

PROJECT ID# W-00342B

TOTALS
 FOUND THIS DATE: _____
 STATIONING: _____
 CONTRACT: _____

MATERIAL LIST QUANTITY
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 30060" DIA _____
 30096" DIA _____
 30132" DIA _____
 30168" DIA _____
 30204" DIA _____
 30240" DIA _____
 30276" DIA _____
 30312" DIA _____
 30348" DIA _____
 30384" DIA _____
 30420" DIA _____
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 30528" DIA _____
 30564" DIA _____
 30600" DIA _____
 30636" DIA _____
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 30960" DIA _____
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 31104" DIA _____
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 31212" DIA _____
 31248" DIA _____
 31284" DIA _____
 31320" DIA _____
 31356" DIA _____
 31392" DIA _____
 31428" DIA _____
 31464" DIA _____
 31500" DIA _____
 31536" DIA _____
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 31788" DIA _____
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 31860" DIA _____
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PROJECT ID# DW- 00042B		
TOTALS		
FIBER THIS SHEET	500	
STATIONING	107 5+92	
CONDUIT	500	
MATERIAL LIST QUANTITY		
PL 2 EA HOPE BY BORE	500	
PL 2 EA HOPE BY FLOW	500	
PL 1 HR IN LINE	500	
INSTALL 100' SLACK/REP	500	
INSTALL 50' SLACK/REP	500	
PL ACC FIBER IN DUCT	500	
LABOR LIST QUANTITY		
DATE: XXXX		
ENGINEER: OSMOSE COMMUNICATIONS SERVICES		
REVISIONS		
DATE	DESCRIPTION	INITIAL
XX		
XX		
XX		
XX		
XX		
SCALE: HOR. 1" = 50'		
VERT. 1" = 50'		
DISCLAIMER		
NEPROMPTLY IN CONNECTION WITH THE CONTRACTOR'S OBLIGATION TO THE CLIENT TO PROVIDE THE CONTRACTOR WITH THE NECESSARY INFORMATION.		
DWG. NO.		
SHEET NO. 1 OF 30		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **01/01/11**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record:
 Initiating Agency **Railroad** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	BRYAN SUB	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	No
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715** Railroad Contact: State Contact: **(512)486-5052**

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 10 Total Switching: 0	Day Thru:	5
Typical Speed Range Over Crossing: From 0 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?		No
Does Another RR Operate Over Your Track at Crossing?		No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **01/01/11**

End-Date of Record:

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 2
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	DC/AFO
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Concrete	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	1998
Annual Average Daily Traffic (AADT):	001407	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	03		
Posted Highway Speed:	30		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **07/28/10**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **12/31/10**
 Initiating Agency **Railroad** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	BRYAN SUB	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	No
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)648-8715** Railroad Contact: State Contact: **(512)486-5052**

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 10	Day Thru:	5
Total Switching: 0	Maximum Time Table Speed:	25
Typical Speed Range Over Crossing: From 0 to 25 mph	Specify:	
Type and Number of Tracks: Main: 1 Other 0		
Does Another RR Operate a Separate Track at Crossing?		No
Does Another RR Operate Over Your Track at Crossing?		No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **07/28/10**

End-Date of Record: **12/31/10**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify: 0

Train Activated Devices:

Gates: 2	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 2
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Concrete	Is it Signalized?
Nearby Intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Local
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 001407	AADT Year: 1998
Estimated Percent Trucks: 03	Avg. No of School Buses per Day: 0
Posted Highway Speed: 30	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **07/26/10**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **07/27/10**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	BRYAN SUB	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	No
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:
Specify Signs:	Specify Signals:
ST/RR A ST/RR B ST/RR C ST/RR D	

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715** Railroad Contact: State Contact: **(512)486-5052**

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 6 Total Switching: 1	Day Thru:	5
Typical Speed Range Over Crossing: From 10 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?		No
Does Another RR Operate Over Your Track at Crossing?		No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **07/26/10**

End-Date of Record: **07/27/10**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 2
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	DC/AFO
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Concrete	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	1998
Annual Average Daily Traffic (AADT):	001407	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	03		
Posted Highway Speed:	30		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **01/01/09**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **07/25/10**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	BRYAN SUB	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	No
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:

Specify Signs:

Public Access:

Specify Signals:

ST/RR A

ST/RR B

ST/RR C

ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715**

Railroad Contact:

State Contact: **(512)486-5052**

Part II Railroad Information

Number of Daily Train Movements:		Less Than One Movement Per Day:	No
Total Trains:	6	Total Switching:	1
Typical Speed Range Over Crossing: From	10 to 25 mph	Day Thru:	5
Type and Number of Tracks: Main:	1	Other:	0
		Specify:	
Does Another RR Operate a Separate Track at Crossing?			No
Does Another RR Operate Over Your Track at Crossing?			No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **01/01/09**

End-Date of Record: **07/25/10**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify:
	0

Train Activated Devices:

Gates: 2	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 2
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Concrete	Is it Signalized?
Nearby Intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Local
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 001407	AADT Year: 1998
Estimated Percent Trucks: 03	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **09/04/06**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **12/31/08**
 Initiating Agency **Railroad** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	BRYAN SUB	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26TH STREET
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn.:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	No
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715** Railroad Contact: State Contact: **(512)416-2200**

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 6	Total Switching: 1	Day Thru: 5
Typical Speed Range Over Crossing: From 10 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **09/04/06**

End-Date of Record: **12/31/08**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0
Other Train Activated Warning Devices:		Bells:	2
Channelization:		Special Warning Devices Not Train Activated:	
Track Equipped with Train Signals?	Yes	Type of Train Detection:	DC/AFO
		Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	1998
Annual Average Daily Traffic (AADT):	001407	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	03		
Posted Highway Speed:	0		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **03/07/05**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **09/03/06**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	No
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:

Specify Signs:

Public Access:

Specify Signals:

ST/RR A

ST/RR B

ST/RR C

ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715**

Railroad Contact:

State Contact: **(512)486-5000**

Part II Railroad Information

Number of Daily Train Movements:		Less Than One Movement Per Day:	No
Total Trains:	10	Total Switching:	1
Typical Speed Range Over Crossing: From	5 to 25 mph	Day Thru:	5
Type and Number of Tracks: Main:	1	Other:	0
		Specify:	25
Does Another RR Operate a Separate Track at Crossing?			No
Does Another RR Operate Over Your Track at Crossing?			No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **03/07/05**

End-Date of Record: **09/03/06**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 2
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	DC/AFO
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	1998
Annual Average Daily Traffic (AADT):	001407	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	03		
Posted Highway Speed:	0		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **08/23/04**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **03/06/05**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6736555
ENS Sign Installed:		Longitude:	-96.3726035
Passenger Service:		Lat/Long Source:	Actual
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:

Specify Signs:

Public Access:

Specify Signals:

ST/RR A

ST/RR B

ST/RR C

ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715**

Railroad Contact:

State Contact: **(512)486-5000**

Part II Railroad Information

Number of Daily Train Movements:		Less Than One Movement Per Day:	No
Total Trains:	10	Total Switching:	1
Typical Speed Range Over Crossing: From	5 to 25 mph	Day Thru:	5
Type and Number of Tracks: Main:	1	Other:	0
		Specify:	25
Does Another RR Operate a Separate Track at Crossing?			No
Does Another RR Operate Over Your Track at Crossing?			No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **08/23/04**

End-Date of Record: **03/06/05**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify:
	0

Train Activated Devices:

Gates: 2	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 2
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light
	Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Timber	Is it Signalized?
Nearby Intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Local
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 001197	AADT Year: 1998
Estimated Percent Trucks: 03	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **04/09/02**
 Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **08/22/04**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6511730
ENS Sign Installed:		Longitude:	-96.3756260
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715** Railroad Contact: State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 10 Total Switching: 1	Day Thru:	5
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?		No
Does Another RR Operate Over Your Track at Crossing?		No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **04/09/02**

End-Date of Record: **08/22/04**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify:
	0

Train Activated Devices:

Gates: 2	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 2
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Timber	Is it Signalized?
Nearby intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Collector
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 001970	AADT Year: 1992
Estimated Percent Trucks: 05	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **06/08/01**
 Railroad: **UP Union Pacific RR Co. [UP J]** End-Date of Record: **04/08/02**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Strn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6511730
ENS Sign Installed:		Longitude:	-96.3756260
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D
Railroad Use:			
State Use:			
Narrative:			

Emergency Contact: **(800)848-8715** Railroad Contact: State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 10 Total Switching: 1	Day Thru:	5
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?		No
Does Another RR Operate Over Your Track at Crossing?		No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **06/08/01**

End-Date of Record: **04/08/02**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	No Markings	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 2
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	DC/AFO
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Collector
Is Crossing on State Highway System:	No	AADT Year:	1992
Annual Average Daily Traffic (AADT):	001970	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **07/29/92**
Railroad: **UP Union Pacific RR Co. [UP]** End-Date of Record: **06/07/01**
Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Str:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6511730
ENS Sign Installed:		Longitude:	-96.3756260
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact: **(800)848-8715** Railroad Contact: State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 26	Total Switching: 1	Day Thru: 3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION
Continued

Crossing **743198M**

Effective Begin-Date of Record: **07/29/92**
End-Date of Record: **06/07/01**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 2
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	Constant Warning Time
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Collector
Is Crossing on State Highway System:	No	AADT Year:	1992
Annual Average Daily Traffic (AADT):	001970	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **10/14/88**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **07/28/92**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	30.6511730
ENS Sign Installed:		Longitude:	-96.3756260
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D
Railroad Use:			
State Use:			
Narrative:			

Emergency Contact: Railroad Contact: State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 26	Total Switching: 1	Day Thru: 3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **10/14/88**

End-Date of Record: **07/28/92**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify:
	0

Train Activated Devices:

Gates: 2	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 2
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: Constant Warning Time
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Timber	Is it Signalized?
Nearby Intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Collector
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 006500	AADT Year: 1988
Estimated Percent Trucks: 05	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **03/29/88**
Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **10/13/88**
Initiating Agency **Railroad** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count: 0		Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:		Public Access:		
	Specify Signs:		Specify Signals:	
	ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact:

Railroad Contact:

State Contact:

Part II Railroad Information

Number of Daily Train Movements:		Less Than One Movement Per Day:	No
Total Trains: 26	Total Switching: 1	Day Thru:	3
Typical Speed Range Over Crossing: From 5 to 25 mph		Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0		Specify:	
Does Another RR Operate a Separate Track at Crossing?	No		
Does Another RR Operate Over Your Track at Crossing?	No		

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **03/29/88**

End-Date of Record: **10/13/88**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	2	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 2
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	Constant Warning Time
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Collector
Is Crossing on State Highway System:	No	AA DT Year:	
Annual Average Daily Traffic (AADT):	002665	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **03/28/88**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **03/28/88**
 Initiating Agency **Railroad** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D
Railroad Use:			
State Use:			
Narrative:			

Emergency Contact: Railroad Contact: State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 26	Total Switching: 1	Day Thru: 3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **03/28/88**

End-Date of Record: **03/28/88**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0 Specify:
			0

Train Activated Devices:

Gates:	0	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0 Bells: 1
Other Train Activated Warning Devices:		Special Warning Devices Not Train Activated:	
Channelization:		Type of Train Detection:	DC/AFO
Track Equipped with Train Signals?	Yes	Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Collector
Is Crossing on State Highway System:	No	AADT Year:	
Annual Average Daily Traffic (AADT):	002665	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **03/15/85**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **03/27/88**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D
Railroad Use:			
State Use:			
Narrative:			

Emergency Contact: Railroad Contact: State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 6	Total Switching: 1	Day Thru: 3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **03/15/85**

End-Date of Record: **03/27/88**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify: 0

Train Activated Devices:

Gates: 0	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 1
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Timber	Is it Signalized?
Nearby Intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Collector
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 002665	AADT Year:
Estimated Percent Trucks: 05	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **09/13/84**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **03/14/85**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:
Specify Signs:	Specify Signals:
ST/RR A ST/RR B ST/RR C ST/RR D	

Railroad Use:

State Use:

Narrative:

Emergency Contact:

Railroad Contact:

State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 6 Total Switching: 1	Day Thru:	3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?		No
Does Another RR Operate Over Your Track at Crossing?		No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **09/13/84**

End-Date of Record: **03/14/85**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify:
	0

Train Activated Devices:

Gates: 0	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 1
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	
Crossing Surface: Timber	If Other:
Nearby Intersecting Highway? Less than 75 feet	Is it Signalized?
Does Track Run Down a Street? No	Is Crossing Illuminated?
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Collector
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 006500	AADT Year:
Estimated Percent Trucks: 05	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **07/26/83**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **09/12/84**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact:

Railroad Contact:

State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 6	Total Switching: 1	Day Thru: 3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **07/26/83**

End-Date of Record: **09/12/84**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0
		Specify:	0

Train Activated Devices:

Gates:	0	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0
Other Train Activated Warning Devices:		Bells:	1
Channelization:		Special Warning Devices Not Train Activated:	
Track Equipped with Train Signals?	Yes	Type of Train Detection:	DC/AFO
		Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	
Annual Average Daily Traffic (AADT):	006500	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

**U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014**

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **02/23/83**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **07/25/83**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	0A
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Public Access:		
Specify Signs:	Specify Signals:		
ST/RR A	ST/RR B	ST/RR C	ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact:

Railroad Contact:

State Contact:

Part II Railroad Information

Number of Daily Train Movements:	Less Than One Movement Per Day:	No
Total Trains: 6	Total Switching: 1	Day Thru: 3
Typical Speed Range Over Crossing: From 5 to 25 mph	Maximum Time Table Speed:	25
Type and Number of Tracks: Main: 1 Other: 0	Specify:	
Does Another RR Operate a Separate Track at Crossing?	No	
Does Another RR Operate Over Your Track at Crossing?	No	

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **02/23/83**

End-Date of Record: **07/25/83**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	Yes	Hump Crossing Sign:	
Pavement Markings:	Stop Lines and RR Xing Symbols	Other Signs:	0
		Specify:	0

Train Activated Devices:

Gates:	0	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0
Other Train Activated Warning Devices:		Bells:	1
Channelization:		Special Warning Devices Not Train Activated:	
Track Equipped with Train Signals?	Yes	Type of Train Detection:	DC/AFO
		Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	if Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	
Annual Average Daily Traffic (AADT):	006500	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014

Crossing No.: **743198M** Update Reason: **Changed Crossing** Effective Begin-Date of Record: **02/19/82**
 Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **02/22/83**
 Initiating Agency **State** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	ST 0000
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	CM
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:	Specify Signs:	Public Access:	Specify Signals:
	ST/RR A ST/RR B		ST/RR C ST/RR D

Railroad Use:

State Use:

Narrative:

Emergency Contact:

Railroad Contact:

State Contact:

Part II Railroad Information

Number of Daily Train Movements:		Less Than One Movement Per Day:	No
Total Trains:	6	Total Switching:	1
Typical Speed Range Over Crossing: From	5	to	25 mph
Type and Number of Tracks:	Main: 1	Other:	0
		Specify:	
Does Another RR Operate a Separate Track at Crossing?			No
Does Another RR Operate Over Your Track at Crossing?			No

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **02/19/82**

End-Date of Record: **02/22/83**

Part III: Traffic Control Device Information

Signs:

Crossbucks: 0	Highway Stop Signs: 0
Advanced Warning: Yes	Hump Crossing Sign:
Pavement Markings: Stop Lines and RR Xing Symbols	Other Signs: 0 Specify:
	0

Train Activated Devices:

Gates: 0	4 Quad or Full Barrier:
Mast Mounted FL: 0	Total Number FL Pairs: 0
Cantilevered FL (Over): 0	Cantilevered FL (Not over): 0
Other Flashing Lights: 2	Specify Other Flashing Lights: CAUTION X
Highway Traffic Signals: 0	Wigwags: 0 Bells: 1
Other Train Activated Warning Devices:	Special Warning Devices Not Train Activated:
Channelization:	Type of Train Detection: DC/AFO
Track Equipped with Train Signals? Yes	Traffic Light Interconnection/Preemption:

Part IV: Physical Characteristics

Type of Development: Commercial	Smallest Crossing Angle: 60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad: 2	Are Truck Pullout Lanes Present? No
Is Highway Paved? Yes	If Other:
Crossing Surface: Timber	Is it Signalized?
Nearby Intersecting Highway? Less than 75 feet	Is Crossing Illuminated?
Does Track Run Down a Street? No	
Is Commercial Power Available? Yes	

Part V: Highway Information

Highway System: Non-Federal-aid	Functional Classification of Road at Crossing: Urban Local
Is Crossing on State Highway System: No	
Annual Average Daily Traffic (AADT): 006500	AADT Year:
Estimated Percent Trucks: 05	Avg. No of School Buses per Day: 0
Posted Highway Speed: 0	

U.S. DOT - CROSSING INVENTORY INFORMATION
AS OF 5/16/2014

Crossing No.: **743198M** Update Reason: **New Crossing** Effective Begin-Date of Record: **01/01/70**
Railroad: **SP Southern Pacific Transportation Co. [SP]** End-Date of Record: **02/18/82**
Initiating Agency **Original** Type and Position: **Public At Grade**

Part I Location and Classification of Crossing

Division:	HOUSTON	State:	TX
Subdivision:	HEARNE	County:	BRAZOS
Branch or Line Name:	HOUSTON-DENISON	City:	In BRYAN
Railroad Milepost:	0099.76	Street or Road Name:	26 TH ST
RailRoad I.D. No.:	THD09976	Highway Type & No.:	TOWN
Nearest RR Timetable Stn:	BRYAN	HSR Corridor ID:	
Parent Railroad:		County Map Ref. No.:	6338
Crossing Owner:		Latitude:	
ENS Sign Installed:		Longitude:	
Passenger Service:		Lat/Long Source:	
Avg Passenger Train Count:	0	Quiet Zone:	
Adjacent Crossing with Separate Number:			

Private Crossing Information:

Category:		Public Access:		
	Specify Signs:		Specify Signals:	
	ST/RR A	ST/RR B	ST/RR C	ST/RR D
Railroad Use:				
State Use:				
Narrative:				
Emergency Contact:		Railroad Contact:		State Contact:

Part II Railroad Information

Number of Daily Train Movements:		Less Than One Movement Per Day:	No			
Total Trains:	6	Total Switching:	1	Day Thru:	3	
Typical Speed Range Over Crossing: From	5	to	25	mph	Maximum Time Table Speed:	25
Type and Number of Tracks:	Main:	1	Other:	0	Specify:	
Does Another RR Operate a Separate Track at Crossing?		No				
Does Another RR Operate Over Your Track at Crossing?		No				

U.S. DOT - CROSSING INVENTORY INFORMATION

Crossing **743198M**

Continued

Effective Begin-Date of Record: **01/01/70**

End-Date of Record: **02/18/82**

Part III: Traffic Control Device Information

Signs:

Crossbucks:	0	Highway Stop Signs:	0
Advanced Warning:	No	Hump Crossing Sign:	
Pavement Markings:	No Markings	Other Signs: 0	Specify:
		0	

Train Activated Devices:

Gates:	0	4 Quad or Full Barrier:	
Mast Mounted FL:	0	Total Number FL Pairs:	0
Cantilevered FL (Over):	0	Cantilevered FL (Not over):	0
Other Flashing Lights:	2	Specify Other Flashing Lights:	CAUTION X
Highway Traffic Signals:	0	Wigwags:	0
Other Train Activated Warning Devices:		Bells:	1
Channelization:		Special Warning Devices Not Train Activated:	
Track Equipped with Train Signals?	Yes	Type of Train Detection:	DC/AFO
		Traffic Light Interconnection/Preemption:	

Part IV: Physical Characteristics

Type of Development:	Commercial	Smallest Crossing Angle:	60 to 90 Degrees
Number of Traffic Lanes Crossing Railroad:	2	Are Truck Pullout Lanes Present?	No
Is Highway Paved?	Yes	If Other:	
Crossing Surface:	Timber	Is it Signalized?	
Nearby Intersecting Highway?	Less than 75 feet	Is Crossing Illuminated?	
Does Track Run Down a Street?	No		
Is Commercial Power Available?	Yes		

Part V: Highway Information

Highway System:	Non-Federal-aid	Functional Classification of Road at Crossing:	Urban Local
Is Crossing on State Highway System:	No	AADT Year:	
Annual Average Daily Traffic (AADT):	006500	Avg. No of School Buses per Day:	0
Estimated Percent Trucks:	05		
Posted Highway Speed:	0		

February 28, 2013

Certified Mail # 7012 0470 0001 7449 2969

Mr. Jon E. Devish
Union Pacific Railroad Company
1400 Douglas Street, Mail Stop 1690
Omaha, Nebraska 68179

Subject: Proposed installation of a Fiber Optics wire line across the Union Pacific Railroad Corridor (UPRR) at 26th Street in Bryan, Texas.

**USDOT Crossing # 743198M - 26th Street
Bryan, Brazos County, Texas
Milepost 99.76, Houston Denison Line
Houston Division / Bryan Subdivision**

Dear Mr. Devish;

Eagle 1 Resources, LLC is a strategic planning company which provides consultant management services to the utility industry. We are contacting you today on behalf of our client, FiberLight, LLC. Our purpose in contacting you is to discuss a proposed installation of a fiber optics line in Bryan, Texas.

The following summary should provide you with an outline of the proposed project installation at the UPRR railroad corridor.

- A copy of the proposed plan, cross-section, and the specifications of the project has been developed and included in this communication to UPRR. This installation will be an underground 4" HDPE Conduit with a Fiber Optics cable installation. The bore pits are located outside the UPRR right of way. The proposed installation far exceeds the requirements of the UPRR minimum requirements and the AREMA Standards reviewed for this proposed installation.
- The installation conforms to all federal, state, county, and city laws applicable at this time.

- A copy of a letter addressing FiberLight, LLC's General Liability Insurance has been included with this transmittal letter. The attached letter addresses the Railroad Protective Liability insurance coverage provided for this project as well.
- The land records of this property indicate that the crossing is located in a public road which is maintained by the City of Bryan Texas. The proposed installation will be within the public roadway limits of 26th Street.
- Our attorneys have advised us that the follow regulation applies to the proposed work location;

Code of Federal Regulations (CFR) Title 23: 924.3 Definitions;

Public grade crossing means a railway-highway grade crossing where the roadway is under the jurisdiction of and maintained by a public authority and open to public travel. All roadway approaches must be under the jurisdiction of the public roadway authority, and no roadway approach may be on private property.

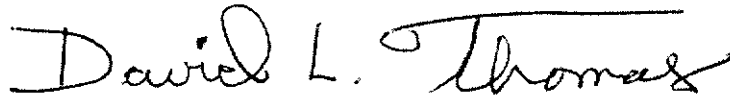
Public road means any highway, road, or street under the jurisdiction of and maintained by a public authority and open to public travel.

- The Utilities Code of the State of Texas under Title 4, Subtitle B, Chapter 181.082 provides the telephone industry the right to install their facilities in the public road right of way. A copy of this information has been included in this transmittal package.
- FiberLight, LLC will not be paying the application fees / processing fees because we are unaware of any federal, state, county, and/or city statute requiring payment to the railroad industry to utilize a publicly maintained road right of way.
- Prior to our installation, FiberLight, LLC will contact the UPRR Track Superintendent (provided by UPRR) to coordinate this installation. We will not require a flagman on this project due to our entire installation being located below ground and our bore pits being located outside the railroad right of way.

Our timeline for the project installation is the week of April 1, 2013. We are requesting a Letter of Consent from the UPRR Railroad for this installation. If you need to discuss this matter further, please contact me at the telephone numbers listed below.

Thank you for your assistance in reviewing our recommended installation. I look forward to working with you on this and other projects as we provide consultant management services to our client.

Sincerely,



David L. Thomas
Managing Member
Eagle 1 Resources, LLC
2572 Weston Street
Auburn, AL. 36832

Office **334.209.0508**
Mobile **334.546.8166**

E-mail dthomas@eagle1resources.com
Web www.eagle1resources.com

cc: Ms. Carla Hicks
 Paralegal
 FiberLight, LLC
 11700 Great Oaks Way Street / Suite 100
 Alpharetta, GA. 30022



Consent Letter

March 21, 2013
Folder: 02790-66

**CARLA HICKS
FIBERLIGHT, LLC
11700 GREAT OAKS WAY, SUITE 100
ALPLARETTA GA 30022**

RE: Proposed construction of fiber optic wireline at Mile Post 99.77, on the Bryan Branch/Subdivision, within E 26th Street, at or near Bryan, Brazos County, Texas.

Carla:

Please refer to your application notifying the Railroad Company of the above subject construction project within a dedicated public right of way for Fiberlight, LLC (hereinafter the "Utility").

This letter will serve as notification that the engineering information submitted has been reviewed and the Railroad Company approves the proposed crossing and its installation as shown on Exhibit A print. It is understood that the Utility shall reimburse the Railroad Company for all expenses incurred by the Railroad Company for employment of flagmen, inspectors and other employees required to protect the right of way and property of the Railroad Company from damage arising out of and/or from the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the utility line. The Utility shall reimburse the Railroad Company for such expenses within thirty (30) days after presentation of bill for such expenses.

The Railroad Company has authorized the installation of fiber optic cable facilities on its property in certain areas. Prior to using the Railroad Company's property covered herein, you should contact the Railroad Company at 1-800-336-9193 to determine if a fiber optic cable is buried on the subject property. When you or your representative enter the Railroad Company's property, a copy of this letter must be available at the site to be shown on request to any Railroad employee or official.

In order to protect the Railroad Company's property as well as for safety reasons, it is imperative that the Utility notify our Manager Track Maintenance office:

David Gitlitz - MTM
Union Pacific Railroad Company
24189 Adline Westfield Rd
Spring, TX 77373
713.577.0720, Cell 281.222.8527

Kevin Alston - MSM
Union Pacific Railroad Company
3601 McKinney St
Houston, TX 77023
713.577.0953, Cell 903.571.8017

a minimum of ten (10) days in advance of any construction on, along, or across the Railroad Company's right of way and/or tracks.

Sincerely,

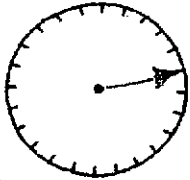


Jon E. Devish
Manager - Contracts - Real Estate
(402) 544-8563

APPLICATION FOR UNDERGROUND WIRELINE CROSSING

750 VOLTS OR LESS

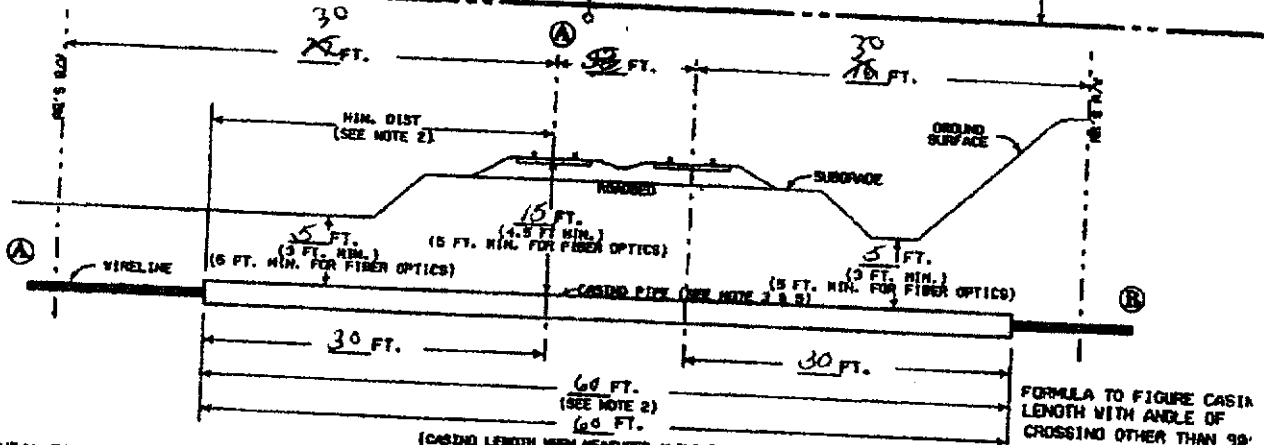
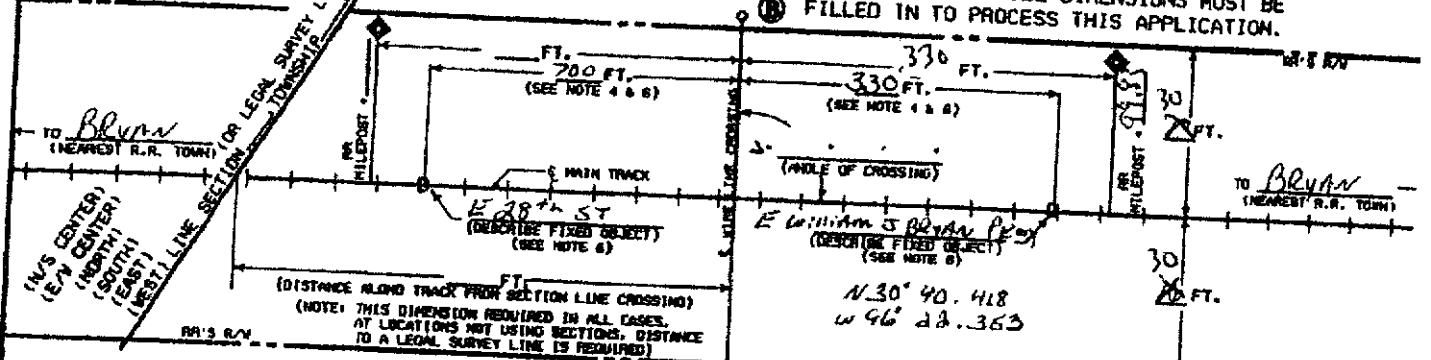
PLACE ARROW INDICATING NORTH DIRECTION RELATIVE TO CROSSING



NO SCALE

SPECIFICATION EXHIBIT NO. _____
 TO ACCOMPANY AND BE GOVERNED BY BLANKET AGREEMENT NO. 160431 DATED
 APRIL 1, 1992 BETWEEN UNION PACIFIC RAILROAD COMPANY AND SOUTHWESTERN
 BELL TELEPHONE COMPANY
 CONSIDERATION (PRIVATE CROSSING) \$ _____

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO PROCESS THIS APPLICATION.



- NOTES:
- 1) ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES TO TRACK.
 - 2) CASING MUST EXTEND A MINIMUM OF 38' OUT FROM E. OF TRACK, EXCEPT AS NOTED.
 - 3) CASING MATERIAL: STEEL, RIGID METALLIC CONDUIT (NO PVC).
 - 4) MINIMUM OF 50' FROM THE END OF ANY RAILROAD BRIDGE, E. OF ANY CULVERT, OR FROM ANY SWITCHING AREA.
 - 5) SIGNAL REPRESENTATIVE MUST BE PRESENT DURING INSTALLATION IF RAILROAD SIGNALS ARE IN THE VICINITY OF CROSSING.
 - 6) ALLOWABLE FIXED OBJECTS INCLUDE: BACKWALLS OF BRIDGES; E. OF ROAD CROSSINGS & OVERHEAD VIADUCTS (GIVE ROAD NAME), OR E. OF CULVERTS.
 - 7) CASING AND CARRIER PIPE MUST BE PLACED A MINIMUM OF 2 FEET BELOW THE EXISTING FIBER OPTIC CABLE. ANY EXCAVATION REQUIRED WITHIN 5 FEET OF THE EXISTING FIBER OPTIC CABLE MUST BE HAND DUG.

A) IS WIRELINE CROSSING WITHIN DEDICATED STREET? YES; NO;
 B) IF YES, NAME OF STREET E 26th ST
 C) TYPE WIRELINE CROSSING: TELEPHONE; TELEVISION; FIBER OPTIC;
 OTHER: _____
 D) VOLTAGE TO BE CARRIED UNDER TRACK _____ NO. OF WIRES 1
 E) CASING TYPE TO BE INSTALLED 4" HOPE SOR-11
 F) METHOD OF INSTALLING CASING PIPE UNDER TRACK(S):
 _____ DRY BORE AND JACK (WET BORE NOT PERMITTED);
 _____ TUNNEL; OTHER Directional Bore
 G) DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 30'
 (38' MIN.)
 H) DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) 788'
 I) APPLICANT HAS CONTACTED _____ OF U. P. COMMUNICATION DEPARTMENT AND HAS DETERMINED FIBER OPTIC CABLE _____ DOES; _____ DOES NOT; _____ EXIST IN VICINITY OF WORK TO BE PERFORMED. Ticket #

FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX

UNION PACIFIC RAILROAD CO.
Bryan
 H.P. 9977 (SUPERVISOR) E.S. 5266+62B
Bryan (NEAREST RR STATION) Brazos (COUNTY) TX
 RR FILE NO. 2790-66 DATE 3-19-93 (STATE)

WARNING
 IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE.
 PHONE: 1-800-338-9190

SOUTHWESTERN BELL TELEPHONE/AT & T
 BY: _____
 TITLE: _____
 UNION PACIFIC RAILROAD CO.
 BY: _____
 TITLE: _____
 CONTRACTS REPRESENTATIVE