NORTH CAROLINA RAILROAD COMPANY

HNTB Corporation

May 5, 2014

Mr. Nolan Raney
Kimley-Horn and Associates, Inc.
3001 Weston Parkway
Cary, NC 27513

Re: Request for Occupancy of North Carolina Railroad Right of Way
File No.: 14002
NCRR ID No.: o_h-055+0359
NS File No.: 1194163
Location: Durham, Durham County

Dear Mr. Raney:

Enclosed please find three (3) originals of the North Carolina Railroad Company License Agreement, which also incorporates the Norfolk Southern Railway Company consent in Exhibit B. In order to complete the agreement process, please follow the below listed procedures:

1. Sign the 3 originals of the License Agreement. Please return all 3 originals to NCRR with your check for $200.00 made out to **Norfolk Southern Railway Company**, which covers their one-time application fee.
2. Please include an original of your general liability insurance policy with a combined single limit of not less than $2,000,000 each occurrence. On separate certificates, name the following as insured and certificate holder:
   - North Carolina Railroad Co., 2809 Highwoods Blvd, Suite 100, Raleigh, NC 27604
   - Norfolk Southern Railway Co., Attn: Risk Manager, 3 Commercial Pl, Norfolk, VA 23510
3. Proof of Railroad Protective Liability Insurance for NCRR and NSR (as specified in Article 6 of the agreement and Exhibit B, Article 9) or a check of $1,000 made out to NSR for Risk Financing Fee for addition to NSR's Master Railroad Protective Liability Insurance coverage, as described in the attached special provision.
4. Please return 3 signed License Agreements, the check, a copy of the application, and the insurance certificates to NCRR, 2809 Highwoods Boulevard, Suite 100, Raleigh, NC 27604, Attn.: Justin Madigan. **NCRR will not process the License Agreement until they receive all four (4) items.**

We look forward to working with you on this agreement. If you have any questions, please do not hesitate to contact me at (919) 424-0431/stfisher@hntb.com or Justin Madigan at (919) 954-7601.

Sincerely,
HNTB North Carolina, P.C.

Seth Fisher, PE
Project Engineer

343 E. Six Forks Rd, Suite 200, Raleigh, NC 27609
(919) 546-8997 General Office
(919) 546-9421 Fax

SPECIAL PROVISIONS FOR PROTECTION OF RAILWAY INTEREST
Pipeline and Wireline Crossings

INSURANCE:

A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:

1. Commercial General Liability Insurance having a combined single limit of not less than $2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name Railroad specified in item A.2.c. below as an additional insured, and shall include a severability of interests provision.

2. Railroad Protective Liability Insurance having a combined single limit of not less than $2,000,000 each occurrence and $6,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site **(see **)**

   The standards for the Railroad Protective Liability Insurance are as follows:

   a. The insurer must be rated A- or better by A.M. Best Company, Inc.
   b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") Railroad Protective Liability Insurance Form Numbers:
      (1) CG 00 35 01 96 and CG 28 31 10 93; or
      (2) CG 00 35 07 98 and CG 28 31 07 98; or
      (3) CG 00 35 10 01.
   c. The named insured shall read:
      [Name of railroad that owns the track]; and
      Norfolk Southern Railway Company
      Three Commercial Place
      Norfolk, Virginia 23510-2191
      Attn: D. W. Fries, Director Risk Management
   d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Department project and contract identification numbers.
   e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number.
   f. The name and address of the prime contractor must appear on the Declarations.
   g. The name and address of the Department must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."

h. Other endorsements/forms that will be accepted are:
   (1) Broad Form Nuclear Exclusion – Form IL 00 21
   (2) 30-day Advance Notice of Non-renewal or cancellation
   (3) Required State Cancellation Endorsement
   (4) Quick Reference or Index Form CL/IL 240

i. Endorsements/forms that are **NOT** acceptable are:
   (1) Any Pollution Exclusion Endorsement except CG 28 31
   (2) Any Punitive or Exemplary Damages Exclusion
   (3) Known injury or Damage Exclusion form CG 00 59
   (4) Any Common Policy Conditions form
   (5) Any other endorsement/form not specifically authorized in item no. 2.h above.

B. If any part of the work is sublet, similar insurance, and evidence thereof as specified in A.1 above, shall be provided by or on behalf of the subcontractor to cover its operations on Railroad's right of way.

C. Prior to entry on Railroad right-of-way, the original Railroad Protective Liability Insurance Policy shall be submitted by the Prime Contractor to the Department at the address below for its review and transmittal to the Railroad. In addition, certificates of insurance evidencing the Prime Contractor's and any subcontractors' Commercial General Liability Insurance shall be issued to the Railroad and the Department at the addresses below, and forwarded to the Department for its review and transmittal to the Railroad. The certificates of insurance shall state that the insurance coverage will not be suspended, voided, canceled, or reduced in coverage or limits without (30) days advance written notice to Railroad and the Department. No work will be permitted by Railroad on its right-of-way until it has reviewed and approved the evidence of insurance required herein.

Insured Railroad:

RAILROAD Mailing Address:
Mr. D. W. Fries, ARM
Director Risk Management
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

D. The insurance required herein shall in no way serve to limit the liability of Department or its Contractors under the terms of this agreement.

****Depending on the type of work to be performed, this coverage may be added to our Master Railroad Protective Insurance policy for a premium fee of $1,000.**

Railroad Use Only
NS File No. 1194163

NCRR File No. o_h-055+0359
AC:

PIPELINE AGREEMENT

THIS AGREEMENT, made and entered into by and between NORTH CAROLINA RAILROAD COMPANY, a North Carolina corporation, hereinafter styled "Company"; and CITY OF DURHAM, a North Carolina government entity, hereinafter styled "Licensee"; and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, hereinafter styled "NSR";

W I T N E S S E T H

WHEREAS, Licensee proposes to install, maintain, operate and eventually remove one (1) 16-inch ductile iron potable water pipeline 41 feet in length which connects to one (1) 6-inch ductile iron potable water pipeline 9 feet in length, under and across the right of way or property of Company, at Milepost H-055 plus 359 feet, Valuation Station 2809 plus 80 at or near Durham, Durham County, North Carolina, and one (1) 16-inch ductile iron potable water pipeline running parallel to the tracks for 152 feet, under and along the right of way or property of Company, from Milepost H-055 plus 258 feet, Valuation Station 2808 plus 79 feet, to Milepost H-055 plus 401 feet, Valuation Station 2810 plus 22 feet, at or near Durham, Durham County, North Carolina, to be located together with any ancillary appurtenances as shown on print of Drawing marked **Exhibit A1**, dated March 7, 2014, attached hereto and made a part hereof (hereinafter called "Facilities");

WHEREAS, Company is willing to permit this proposed Facilities, upon the following terms and conditions;

NOW, THEREFORE, for and in consideration of the premises, payment of an initial fee by Licensee to NSR of TWO HUNDRED AND NO/100 DOLLARS ($200.00), and also a one-time non-refundable fee to Company of THREE THOUSAND NINE HUNDRED TWENTY-SIX AND 88/100 DOLLARS ($3,926.88) and of the covenants hereinafter made, Company hereby permits and grants Licensee, insofar as Company has the right to do so, without warranty and subject to all encumbrances, covenants and easements to which Company's title may be subject, the right to use and to occupy so much of Company's property as may be necessary for the Facilities, upon the following terms and conditions:

1. Licensee will construct and maintain the Facilities, at its expense, in such a manner as will not interfere with the operations of Company or endanger persons or property of Company, and in accordance with (a) plans and specifications (if any) shown on said print(s) and any other specifications prescribed by Company, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the American Railway Engineering Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above.

2. To the extent allowed by law, Licensee hereby agrees to indemnify and save harmless Company, its officers, agents and employees, from and against any and all liability, claims, losses, damages, expenses (including attorney's fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever occurring which arises in any manner from the installation, maintenance, operation, presence or removal or the failure to properly install, maintain, operate or remove the Facilities, unless such losses, damages or injuries shall be caused by the negligence of Company. The indemnity contained herein is intended to survive the termination of this Agreement.

3. Licensee assumes all responsibility for any environmental obligations imposed under applicable laws, regulations or ordinances relating to the installation of the Facilities and/or to any contamination of any property, water, air or groundwater arising or resulting from Licensee's permitted operations or uses of Company's property pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install the Facilities. To the extent allowed by law, Licensee agrees to indemnify and hold harmless Company from and against any and all liability, fines, penalties, claims, demands, costs (including attorneys' fees), losses or lawsuits brought by any person, company or governmental entity relating to contamination of any property, water, air or groundwater due to the use or presence of the Facilities. It is agreed that this indemnity provision extends to any cleanup costs related to Licensee's activities upon Company's property and to any costs related to cleanup of the Facilities or to other property caused by the use of the Facilities. The indemnity contained herein is intended to survive the termination of this Agreement.

4. No work of any character shall be started on the property until Certificates of Insurance, specifying that the policies have been furnished and accepted by Company as evidence that Licensee, Contractor, and Subcontractor maintain the following insurance coverages:

(a) Comprehensive General Liability Insurance having a combined single limit of not less than $2,000,000 per occurrence for all loss, damage, cost and expense, including attorney's fees, arising out of bodily injury, liability and property damage liability during the policy period. Such policy shall be endorsed to name Company as an additional insured and shall include a severability of interests provision. In addition, Licensee's policy shall be endorsed to reflect Contractual Liability Insurance specifically relating to the indemnity provisions of this agreement. Any exclusion for construction or demolition activities (including installing wells or bore holes, but not for work done by means of a hand augur) conducted within 50 feet of railroad tracks shall be deleted from Licensee's policy.

(b) In the event Licensee cannot obtain contractual liability insurance to cover the obligations assumed under this Pipeline Agreement, Licensee or its contractor shall procure and furnish to Company a Railroad Protective Liability Insurance Policy having a combined single limit of $2,000,000 per occurrence and $6,000,000 aggregate. Said policy shall name Company as the named insured.

(c) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this agreement is located. Also, Employers' Liability Insurance having limits of not less than $500,000 each accident, $500,000 per disease - policy limit, and $500,000 per disease - each employee.

(d) Automobile Liability Insurance having a combined single limit of not less than $500,000 per occurrence. Said policy shall name Company as an additional insured and shall include a severability of interests provision.

(e) The insurance required herein shall be of such form and content as may be acceptable to Company. Evidence of such insurance (a certificate of insurance for the general liability insurance policy and the original policy of Railroad Protective Liability Insurance) must be furnished to Company at Property Department, North Carolina Railroad Company, 2809 Highwoods Blvd, Suite 100, Raleigh, NC 27604-1000 (or such other current address provided to Licensee) and approved by Company prior to Licensee's entry on the Premises. The insurance required herein shall not limit the liability assumed by Licensee under this Agreement or consent.

5. The details of the Facilities to be installed, maintained and removed shall be at the option of Licensee, and subject to the approval of Company. In case of failure of Licensee to do the work as herein specified, Company reserves the right to remove the Facilities from Company's premises at the expense of Licensee, and to terminate this Agreement upon ten (10) days' written notice.

6. If Company shall make any change or addition on its right of way at or near the Facilities of Licensee affecting the character, height or alignment of any of Company's power lines, communication, signal or other wires or electrical apparatus, or shall place structures or additional wires or electrical apparatus upon its said right of way, or shall make on its said right of way any change to any line, grade, track, roadbed, installations, works or structures or in the use of any such line, grade, track, roadbed, installations, works or structure, which would be affected by the Facilities of Licensee or by the use thereof, Licensee shall within thirty (30) days of written notice from the Company to Licensee, at Licensee's sole cost and expense, make such changes in the location and character of the Facilities as, in the opinion of Company, shall be necessary or appropriate on account of any such changes or additions.

7. Licensee will notify Company prior to the installation and placing in service of cathodic protection in order that tests may be conducted on Company's signal, communications and other electronic systems for possible interference. If the Facilities cause degradation of the signal, communications or other electronic facilities of Company, Licensee, at its expense, will relocate the cathodic protection and/or modify the Facilities to the satisfaction of Company so as to eliminate such degradation. Such modifications may include, without limiting the generality of the foregoing, providing additional shielding, reactances or other corrective measures deemed necessary by Company. This provision applies to the existing signal, communications and electronic equipment of Company and to any signal, communications or electronic equipment that Company may install in the future.

8. If Licensee fails to take any corrective measures requested by Company in a timely manner or if an emergency situation is presented which, in the Company's judgment, requires immediate repairs to the facilities, Company, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable and Licensee shall reimburse Company upon receipt of an invoice.

9. Notwithstanding any other provision of this Agreement, it is understood, agreed and covenanted that Licensee accepts this Agreement as a mere license and assumes all risk of damage to its property by reason of its occupation of the premises herein described caused by any defects therein or business conducted thereon, whether caused by the negligence of Company, its officers, agents or employees, or otherwise, and Licensee hereby indemnifies Company, its officers, agents, and employees, from and against any such liability for said damage. The indemnity contained herein is intended to survive the termination of this Agreement.

10. Company shall furnish, at the cost of Licensee, labor and materials to support its tracks and to protect its traffic during the installation, maintenance, repair, renewal or removal of the Facilities.

11. It is further agreed between the parties that the premises shall be used by Licensee only for the Facilities and for no other purpose without the written permission of the chief engineering officer of Company.

12. Licensee shall give Company seventy-two (72) hours' advance notice (or less in case of emergencies) of any work to be performed on the premises of Company. Licensee agrees to pay any reasonable costs incurred by Company for the purpose of protection and inspection considered necessary by Company during installation, maintenance, operation, modification, replacement and/or removal of the Facilities. Such costs shall be paid upon the Company's submission of an invoice to Licensee.

13. Licensee shall not assign this Agreement without the written consent of Company which consent may be withheld in Company's sole discretion.

14. The word "Company" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Company. Said term also shall include Company's

officers, agents and employees, and any parent company, subsidiary or affiliate of Company and their officers, agents and employees.

15. This Agreement may be terminated by either party upon sixty (60) days written notice to the other party. During said sixty (60) day period, Licensee shall remove the Facilities from Company's premises and restore said premises to a condition satisfactory to Company's chief engineering officer. If Licensee fails to remove the Facilities within the aforesaid sixty day period, Company may elect: (a) to become the owner of the Facilities without any claim or consideration whatsoever therefor by or to Licensee, its successors or assigns, or (b) to remove the Facilities and all property of Licensee from the premises of Company at the expense of Licensee. Licensee agrees to reimburse Company for any and all costs of such removal upon receipt of an invoice. No termination of this Agreement shall affect any liability incurred by either party hereto prior to the effective date of such termination.

16. This Agreement shall take effect as of the_____ day of_____, 20_____.

17. The terms set forth in the attached **Exhibit B**, consisting of two pages and titled "Agreement and Consent of Norfolk Southern Railway Company," are incorporated into this Agreement as if set forth verbatim herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate, each part being an original, as of the _____ day of _____, 20_____.

COMPANY:
NORTH CAROLINA RAILROAD COMPANY

By:_____

Title:_____

LICENSEE:
CITY OF DURHAM

By:_____

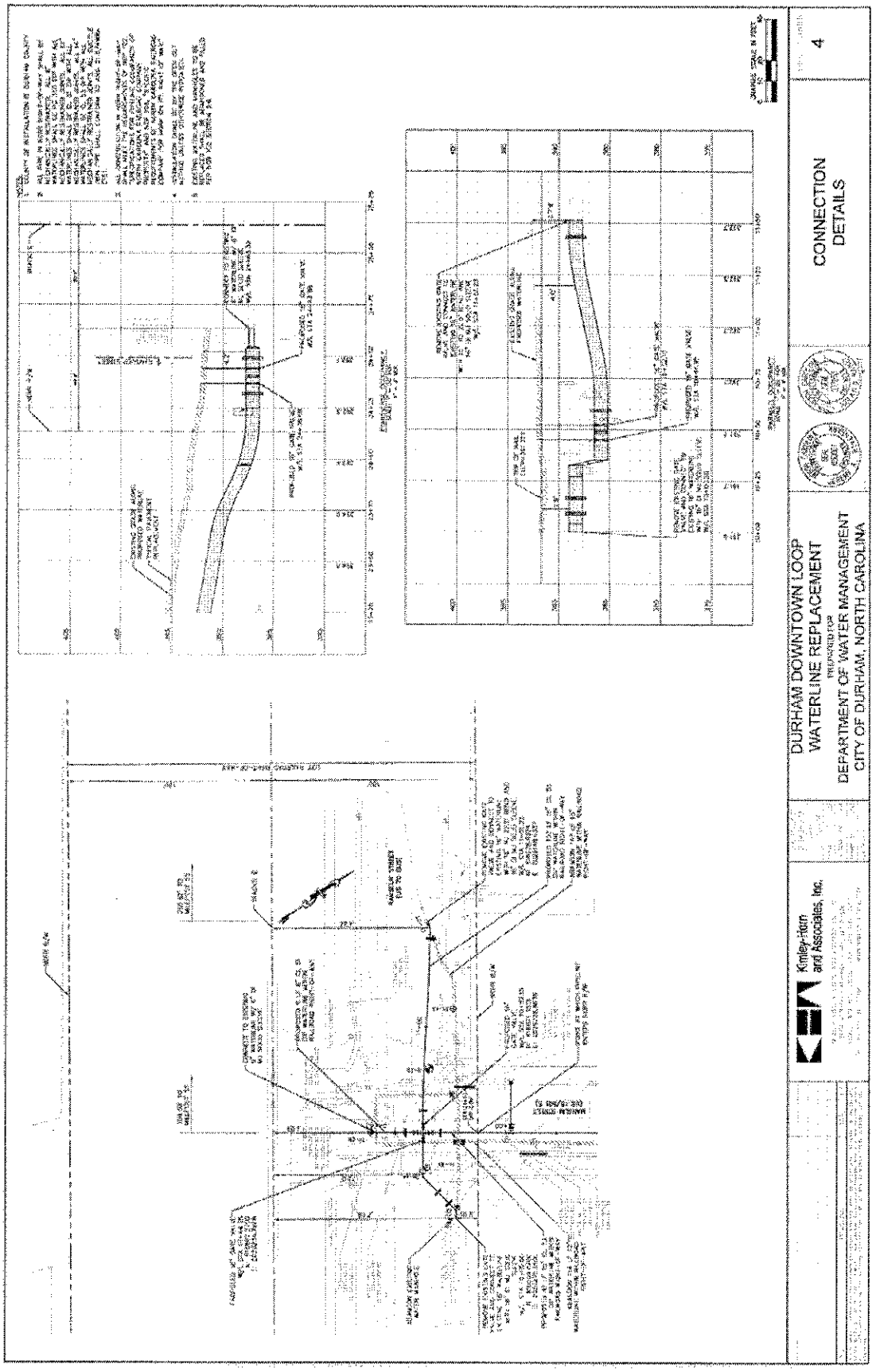
Title:_____

NSR:
NORFOLK SOUTHERN RAILWAY COMPANY

By:_____

Title:_____

Exhibit A1
Milepost H-055+0359



Parcel No. 1 of V-24 & 24e/L14b

EXHIBIT B

AGREEMENT AND CONSENT OF NORFOLK SOUTHERN RAILWAY COMPANY

WHEREAS, Company, Licensee, and NSR desire to enter into the attached Agreement regarding the property described therein (the "Premises").

NOW THEREFORE, in consideration of the above recitals and the promises and agreements contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, NSR, Company, and Licensee agree as follows:

1. NSR gives its consent to the Agreement pursuant to the terms and conditions of this Consent. All of the terms of this Consent are hereby incorporated by reference into the Agreement. The term "NSR" as used in this Agreement and Consent and as used in the Agreement shall include NSR's officers, agents and employees, and any parent company, subsidiary or affiliate of NSR and their officers, agents and employees.

2. The parties agree and understand that any right or claim of Company held in or by virtue of the Agreement shall also inure to the benefit of, and be enforceable by NSR or by any successor or assignee of Company or NSR, and NSR shall not be responsible for any obligations, duties or indemnities of Company to Licensee under the Agreement. NSR reserves any pre-existing rights, claims and defenses against Company and Licensee and said rights, claims and defenses shall not be waived or limited in any way by the Agreement.

3. Licensee understands that NSR makes no warranties or representations regarding the condition of or title to the Premises. Licensee takes the Premises "AS IS" and expressly waives any and all claims against NSR relating to or arising from the condition of or title to the Premises and the property surrounding the Premises, including without limitation, any claims and costs relating to environmental contamination under any applicable laws (such as, without limitation, those which might arise under CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Act).

4. Without the written consent of NSR, (i) neither the Agreement nor this Consent may be assigned in whole or in part by Company or Licensee; (ii) Licensee shall not enter into any sublicense or sublease of the Premises; and (iii) the Agreement shall not be amended by Company or Licensee. No consent by NSR to any sublease, sublicense, assignment, or amendment of the Agreement shall be construed to be consent to any further sublease, sublicense, assignment, or amendment of the Agreement.

5. In consideration of the rights granted by NSR to Licensee by this Consent, to the extent allowed by law, Licensee agrees to indemnify and hold NSR harmless to the same extent as Company is indemnified and held harmless pursuant to the Agreement. In addition, without limiting the indemnities provided in the Agreement, to the extent allowed by law, Licensee specifically shall indemnify and hold harmless NSR from and against any and all attorney's fees, costs, expenses, liabilities, injuries, claims (including third party claims and any claims under any environmental laws and regulations such as CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Control Act) and damages arising from or related to (1) the Agreement; (2) any acts or omissions by Licensee at or near the Premises, (3) Licensee's violations of environmental laws and regulations, and (4) environmental contamination caused by Licensee. For purposes of this paragraph, the term Licensee shall mean its officers, employees, agents, contractors, guests or invitees.

6. NSR must be given at least thirty (30) days notice prior to the placement of any equipment, structure, facility, fixture, or other improvement on the Premises other than those permitted by the Agreement.

7. Company and NSR agree that, by entering into this Consent, (i) NSR is not making any admission regarding any matter between NSR and Company; (ii) Company is not making any admission regarding any matter between NSR and Company; (iii) NSR is not waiving any claim or defense against Company or any affiliate of Company; (iv) Company is not waiving any claim or defense against NSR; (v) NSR does not waive or prejudice any position, claim or defense with regard to any legal or administrative proceedings in which Company or its affiliates and NSR are currently involved or may become involved, including but not limited to any claim or defense with respect to any leasehold rights, environmental obligation or liability, possessory rights, or holdover or non-holdover status of Company; and (vi) Company does not waive or prejudice any position, claim or defense with regard to any legal or administrative proceedings in which Company or its affiliates and NSR are currently involved or may be involved, including but not limited to any claim or defense with respect to any leasehold rights, environmental obligation or liability, possessory rights, or holdover or non-holdover status of Company.

8. Licensee acknowledges that NSR has not made any inspection of the Premises and that the Premises are located at or near active or inactive railroad facilities, structures, or related property.

9. No work of any character shall be started on the property until Certificates of Insurance, specifying that the policies have been furnished and accepted by NSR as evidence that Licensee, Contractor, and Subcontractor maintain the following insurance coverages:

(a) Comprehensive General Liability Insurance having a combined single limit of not less than $2,000,000 per occurrence for all loss, damage, cost and expense, including attorney's fees, arising out of bodily injury, liability and property damage liability during the policy period. Such policy shall be endorsed to name NSR as an additional insured and shall include a severability of interests provision. In addition, Licensee's policy shall be endorsed to reflect Contractual Liability Insurance specifically relating to the indemnity provisions of this agreement. Any exclusion for construction or demolition activities (including installing wells or bore holes, but not for work done by means of a hand augur) conducted within 50 feet of railroad tracks shall be deleted from Licensee's policy.

(b) In the event Licensee cannot obtain contractual liability insurance to cover the obligations assumed under this Pipeline Agreement, Licensee or its contractor shall procure and furnish to NSR a Railroad Protective Liability Insurance Policy having a combined single limit of $2,000,000 per occurrence and $6,000,000 aggregate. Said policy shall name NSR as the named insured.

(c) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this agreement is located. Also, Employers' Liability Insurance having limits of not less than $500,000 each accident, $500,000 per disease - policy limit, and $500,000 per disease - each employee.

(d) Automobile Liability Insurance having a combined single limit of not less than $500,000 per occurrence. Said policy shall name NSR as an additional insured and shall include a severability of interests provision.

(e) The insurance required herein shall be of such form and content as may be acceptable to NSR. Evidence of such insurance (a certificate of insurance for the general liability insurance policy and the original policy of Railroad Protective Liability Insurance) must be furnished to NSR at NSR Risk Manager, Three Commercial Place, Norfolk, VA 23510 (or such other current address provided to Licensee) and approved by NSR prior to Licensee's entry on the Premises. The insurance required herein shall not limit the liability assumed by Licensee under this Consent or the Agreement.