

937280

RAILROAD RIGHT-OF-WAY EASEMENT

Robert A. Christiansen and Shirley A. Christiansen, as "Grantors," being the owners of the following-described property:

A tract of land Fifty Feet (50.0') either side of a line located in the South Half (S 1/2) of Section Two (2), Township Ten (10) North, Range Seven (7) East of the 6th P.M., Lancaster County, Nebraska, and more particularly described as follows: Commencing at the Southwest corner of the East 1/2 of the Southeast 1/4; thence Northerly along the West line of said E 1/2 SE 1/4 a distance of 1,520 feet, said point being the point of beginning; thence Westerly on a line 1,520 feet North of and parallel to the South line of said SE 1/4 to the center line of Stevens Creek, said point being the point of termination;

which is hereinafter referred to as the "railroad right-of-way easement property," do hereby grant a perpetual easement to **International Business Machines Corporation ("IBM")** over all of the railroad right-of-way easement property, for the sole and exclusive use of IBM and its successors in interest as a railroad right-of-way, subject to the following terms and conditions:

1. This easement is perpetual and may be assigned to any person or entity whomsoever by IBM, regardless of whether or not IBM owns or continues to own any real estate adjoining the railroad right-of-way easement property.

2. This easement shall run with the land; provided, however, that it shall at all times be assignable by IBM as provided in paragraph 1 above.

3. IBM shall not permit public access to the railroad right-of-way easement property; provided, however, that IBM or its assignee or permittee shall at all times have the right to come on the railroad right-of-way easement property for the purpose of constructing, operating, maintaining, and repairing railroad trackage, a bridge across Stevens Creek, and all other appurtenances or improvements, including trackage, ties, and ballast necessary or incidental to the maintenance and operation of industrial railroad trackage extending from west to east or east to west across the length of the railroad right-of-way easement property.

4. IBM agrees that in the design and construction of the railroad facility, due consideration shall be given to proper drainage and erosion control so that the completed facility shall not create drainage patterns and conditions detrimental to the adjoining property of the Grantors.

EXHIBIT A

5. Within a reasonable period of time after construction of the railroad trackage:

a. IBM or its assignee shall plant and maintain the surface of the ground with appropriate ground cover.

b. IBM or its assignee shall construct and continuously maintain fences in conformity with Exhibit C which is attached hereto, to be erected to a height of six (6) feet along the north and south boundaries of the railroad right-of-way easement property.

c. IBM or its assignee shall provide and maintain two crossings over and under the railroad trackage suitable to permit the Grantors and Grantors' livestock to cross the railroad right-of-way easement property and shall construct suitable gates in the fence on both the north and south sides of the railroad right-of-way easement property to permit Grantors and their livestock to cross back and forth through and under the railroad right-of-way easement property; provided, however, that the crossings shall be private, as opposed to public, crossings and shall be maintained solely for the use of Grantors and Grantors' successors in interest to the surface fee title for livestock crossings and the movement of Grantors' farming equipment; and provided, further, that the Grantors, on any occasion, shall not obstruct the railroad track nor interfere with the use and operation of the railroad thereon. The design and approximate location of the grade crossings, fencing, gates, and the proposed livestock crossings are shown on attached Exhibit C, which has been reviewed and initialed by the parties. The obligation of IBM and its assignee to maintain the crossings shall not require IBM or its assignee to repair damage caused thereto by the Grantors or their successors in interest. In addition, IBM and its assignee shall also maintain and repair the right-of-way and nearby drainage surfaces when and where they are damaged as a result of heavy rainfall combined with runoff pattern alteration attributable to the constructed railroad facility.

6. In the event IBM shall sell its real estate adjoining the railroad right of way easement property at the east end thereof for agricultural or residential purposes, then, in such event, the Grantors may, on thirty (30) days' advance written notice to IBM, cancel this easement. Such notice shall be delivered by registered mail, return receipt requested, to IBM at its office at 208 Harbor Drive, Post Office Box 10501, Stamford, CT 06904-2501, to the attention of Real Estate Services Counsel; with a copy to "Manager of Land Bank Services," at the same address; and with a copy to Charles E. Wright, Cline Williams Law Firm, 1900 First Tier Bank Building, Lincoln, NE 68508.

7. While this easement is in effect, and subject only to the right of Grantors or their successor in interest to cross the railroad right-of-way easement property at the crossings provided herein, IBM and its assignee shall have exclusive use and possession of the railroad right-of-way easement property for the purpose of constructing, operating, and utilizing industrial railroad trackage thereon. Notwithstanding the preceding sentence, Grantors, or their successor in interest, may continue to farm the railroad right-of-way easement property until such time as IBM or its successor in interest shall notify the Grantors or their successor in interest that it is necessary to proceed with the survey, design, or construction of the industrial railroad trackage, in which event IBM may proceed without further notice or delay to take whatever action is necessary to utilize the railroad right-of-way easement property for the purpose of constructing, operating, and utilizing the railroad trackage thereon. After notification is provided to the Grantors, or their successor in interest, IBM or its assignee shall proceed to complete the construction of the railroad facility and the improvements referred to in paragraph 5 within a reasonable period of time. If construction of improvements is not completed within a reasonable period of time, or if the project is abandoned by IBM or its successor in interest, the Grantors, or their successor in title, may, on thirty (30) days' written notice to IBM or its successor in title, terminate this easement.

8. This easement shall be binding upon and inure to the benefit of the Grantors and IBM and their personal representatives, successors, and assigns.

9. This Railroad Right-of-Way Easement is given by the Grantors to IBM pursuant to the provisions of a certain Agreement for Railroad Right-of-Way Easement dated May 14, 1993; and no change or amendment thereof shall be effective unless it shall be in writing and signed by the parties hereto.

IN WITNESS WHEREOF, the Grantors and IBM have executed this Railroad Right-of-Way Easement effective this 29 day of May 1993.

**International Business
Machines Corporation**

By *Charles Wright*
Authorized Signature

Grantors:

Robert A. Christiansen
Robert A. Christiansen

Shirley A. Christiansen
Shirley A. Christiansen

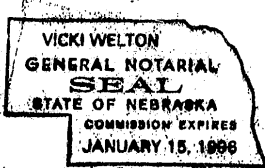
Elmer L. Christiansen
Elmer L. Christiansen

Helen V. Christiansen
Helen V. Christiansen

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STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 29
day of May 1993 by **Robert A. Christiansen and Shirley A. Christiansen**, husband and wife.

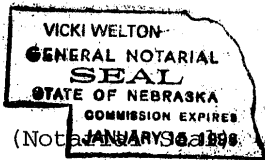


(Notarial Seal)

Vicki Welton
Notary Public
My commission expires 1-15-96

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 29
day of May 1993 by **Elmer L. Christiansen and Helen V. Christiansen**, husband and wife.

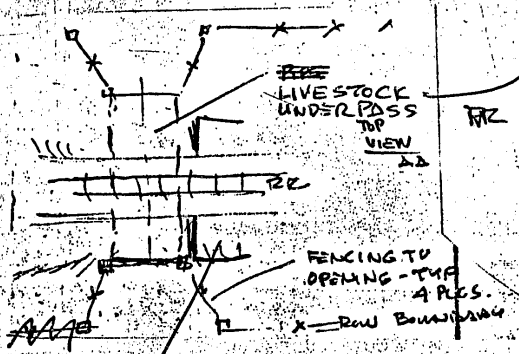
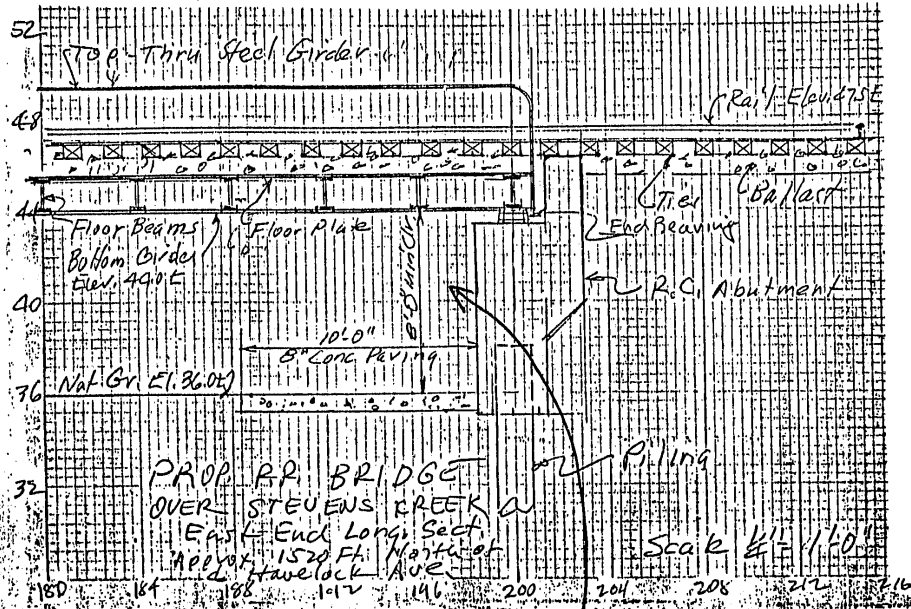


(Notarial Seal)

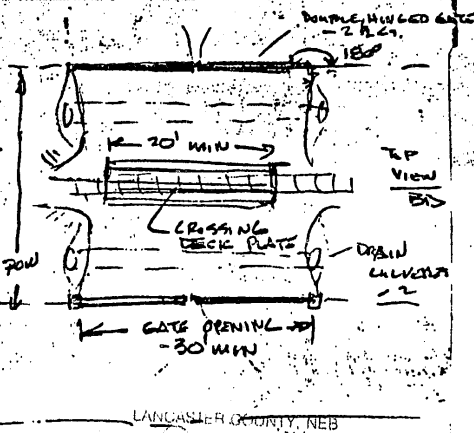
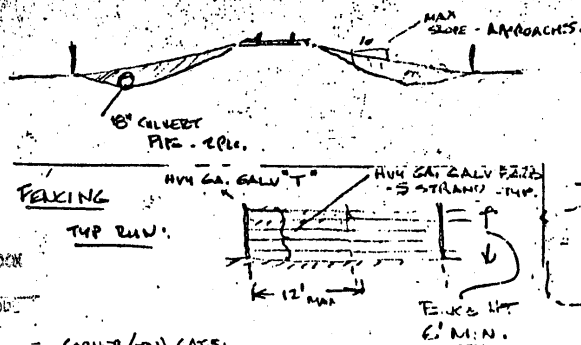
Vicki Welton
Notary Public
My commission expires 1-15-96

RAILROAD RIGHT-OF-WAY
FENCING AND CROSSING DETAILS

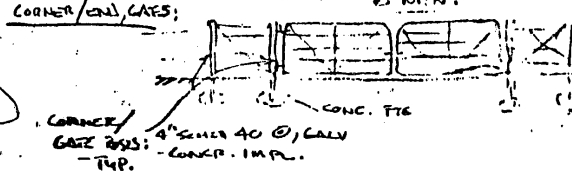
EXHIBIT C
new for IBM
RAZ



BRIDGE ABUTMENT
RAZ
DETAIL B-B - EQUIPMENT CROSSING



BLACK
CODE
CHISEL
CORNER/END, GATES:
CORNER/
GATE POSTS:
4" SCHED 40 @ 1/2" GALV
- CONCR. IMP.



JUN. 4 4 02 PM '93
INST. NO 93 23193
\$25.50

35/36

new / pd. Chris Wellenstet