

**TRANSPORTATION COMMISSION OF WYOMING and its
WYOMING DEPARTMENT OF TRANSPORTATION**

SEISMOGRAPH CABLE PERMIT

1. **Parties.** The parties to this Permit are _____, hereinafter referred to as Permittee, whose physical address is _____ and the **TRANSPORTATION COMMISSION OF WYOMING and its WYOMING DEPARTMENT OF TRANSPORTATION**, whose address is 5300 Bishop Blvd, Cheyenne, WY 82009-3340, hereinafter referred to as Agency.

2. **Purpose and Location.** The Agency hereby grants permission to the Permittee to place Seismograph cables located at:

Section(s) _____ Township _____ Range _____ County (ies) _____

Route _____ Milepost (RM) _____ Near (Town or Junction) _____

GPS Coordinates:

GPS Datum NAD/83 accuracy to ±30' in decimal/degree format (e.g. Latitude 44.12345, Longitude -106.54321).

For encroachments, attach Form M-54G – *Additional GPS Coordinates* - included in the Permit packet.

Entering R/W: Latitude _____ Longitude _____

Exiting R/W: Latitude _____ Longitude _____

FOR DISTRICT USE ONLY				
ML:		Maint. Section:		Dist. Ref. Number:

3. **Term of Permit and Required Approvals.** This Permit is effective when all parties have executed it and authority to proceed has been granted by the Agency. The Permit will expire 90 calendar days from the Agency Approval date.

4. **Responsibilities of Permittee.**

a. **Plan/Staking Sheet.** The Permittee shall attach hereto a plan sheet and/or staking sheet showing the proposed Facilities to be placed within the Agency’s right-of-way. This plan sheet, shall be designated Exhibit “A” and made a part of this Permit. The plans shall include:

- Existing roadway, right-of-way line, right-of-way fence, and cross fences if they are not on the right-of-way line.
- Proposed Facility alignment with offset distances from either the roadway centerline or right-of-way line.
- Existing approaches, intersecting roads or streets, drainage ditches, irrigation ditches, pipes, and culverts that have to be crossed
- Existing major utility Facilities.
- Proposed Facility alignment with offset distances from either the roadway centerline or right-of-way line.
- Indicate with a highlighter, appropriate symbol, or verbiage the Facility so that it is easily recognizable for someone reading the drawing(s).
- Legal description: Section, Township, and Range with North Arrow.
- Reference new Facility to the nearest milepost marker using a compass direction and footage. Example: “1231' east of milepost 30.”

The maximum sheet size shall be 11” x 17”. Use of Agency supplied project plans and cross sections is recommended as most of the above requirements are met, saving time and expense to both parties. Contact the Agency for availability of paper plans and/or electronic design files.

- b. **Facility Placement.** The Facility will be placed in a manner conforming to recognized standards, applicable federal, state, or local laws, codes, ordinances, and regulations; in the exact location shown on the attached “Exhibit A”; and as directed by the Agency. Placing the Facility in a location other than originally approved without obtaining prior Agency approval by submitting a revised “Exhibit A”, will void the Permit.

No seismic activity will be allowed within the highway right-of-way. The Permit will use drainage structures for crossing the highway if within one thousand (1000) feet. If there are no structures within one thousand (1000) feet, a cable may be placed across the roadway surface subject to the following:

- The cable is firmly secured.
- The cable is in place during daylight hours only.
- The cable crossing is adequately signed.

- c. **Contact.** The Permittee will contact the Agency’s Foreman in charge of the area prior to any activity within the right-of-way..

- d. **Traffic Control.** The Permittee agrees to the standards for traffic control as outlined in the Agency’s *Traffic Control for Roadway Work Operations* manual. Standards developed by the Permittee may be substituted for the cited manual provided they have been approved by the district traffic engineer. The Permittee must cease all operations if they do not comply with traffic control standards. Traffic control plans and road closure plans will be submitted to the Agency’s engineer for approval prior to starting any work on highway right-of-way. Traffic is to be protected by signing and flagging, if seismic shots are such that any debris may be thrown onto the right-of-way.

5. **Responsibilities of Agency.** This Permit is issued pursuant to Wyoming Statute § 1-26-813, Right-of-Way Along Public Ways . . . , and grants permission for the Permittee to occupy a portion of the right-of-way controlled by the Agency. This permission is limited by the type of controlling interest held by the Agency. Responsibility to satisfy any other fee (deeded) interest rests with the Permittee.

6. **General Provisions.**

- a. **Additional Stipulations.** Additional specific district stipulations may be attached to this form by the Agency as specified by the *Wyoming Department of Transportation Utility Accommodation Regulation*. The Permittee agrees to incorporate the applicable requirements into the design of the Facility and assures compliance with these requirements during the construction of the Facility. Non-compliance will void this Permit.

- b. **Ambiguities.** The parties agree that any ambiguity in this Permit shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

- c. **Amendments.** Any changes, modifications, revisions or amendments to this Permit which are mutually agreed upon by the parties to this Permit shall be incorporated by written instrument, executed and signed by all parties to this Permit.

- d. **Applicable Law/Venue.** The construction, interpretation and enforcement of this Permit shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Permit and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming. The parties intend and agree that the State of Wyoming and the Agency do not waive sovereign immunity by entering into this Permit, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyoming Statute § 1-39-104(a), Granting Immunity From Tort Liability, and all other state law.

- e. **Entirety of Permit.** This Permit, consisting of four (4) pages, and the attached Exhibits and Additional Stipulations consisting of the pages stamped thereon, represents the entire and integrated Permit between the parties and supersedes all prior negotiations, representations, and Permits, whether written or oral.

- f. **Indemnification.** The Permittee agrees to forever indemnify the Agency and save it harmless from all liability for damages to property, or injury to or death of persons, including all costs and expenses related thereto, arising wholly or in part, or in connection with the existence, construction, alteration, maintenance,

surveillance, repair, renewal, use, or removal of the Facility by the Permittee or his agents, for those Facilities located within the State or Federal highway system described or noted herein.

If the Permittee is a political subdivision of the State, the following provision applies in lieu of the above cited paragraph:

The Permittee hereby agrees to indemnify and hold harmless the Agency against all loss, liability, and damage that arises out of any activities of the Permittee, its agents, employees, and contractors in the performance of any construction, maintenance, repair, or other work on the Agency's property.

Allegations or proof of negligence or other legal fault on the part of the Agency will not defeat the Agency's rights under this provision or relieve the Permittee, its contractors, and agents of their duty to indemnify and hold harmless the Agency, but the Agency will be responsible for any percentage of fault that may be attributable to it pursuant to law, and the obligation of the Permittee, its contractors and agents to indemnify and hold harmless the Agency will be reduced by the percentage of fault attributable to the Agency.

- g. Inspectors.** Based upon the complexity, construction methods or other concerns, the Agency may assign part-time or full-time inspector(s) to the Permittee's project. The cost of such inspection will be at the sole expense of the Permittee, and the Agency's District Offices will initiate an *Authority for Rendering Special Services (ARS)*, as provided in *Operating Policy 24-3*, to cover such costs.
- h. Notices.** All notices arising out of, or from, the provisions of this Permit shall be in writing and given to the parties at the address provided under this Permit, either by regular mail, facsimile, or delivery in person.
- i. Proof of Insurance.** The Permittee shall not commence work on this Permit until the Permittee has obtained all insurance required, provided a copy of all policies to the Agency, and such insurance has been approved by the Agency. Approval of the insurance shall not relieve or decrease the liability of the Permittee. The Permittee's insurance certificates shall be furnished or countersigned by a resident agent authorized to do business in the State of Wyoming.
- j. Sovereign Immunity.**

For private (non governmental) entities (which include utility companies, railroads):

The State of Wyoming and Agency do not waive sovereign immunity by entering into this Agreement, except to the extent necessary for the Parties to pursue an agreement action to clarify or enforce the written terms of this Agreement. In all other situations, the State of Wyoming and the Agency specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyoming Statute § 1-39-104(a), and all other state law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity.

For other governmental entities (municipality, county, board, commission, another state, water districts, sewer districts and other "instrumentalities" of local governments):

The State of Wyoming and Agency do not waive sovereign immunity by entering into this Agreement and the Permittee does not waive governmental immunity, except to the extent necessary for the Parties to pursue an agreement action to clarify or enforce the written terms of this Agreement. In all other situations, the State of Wyoming and the Agency specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyoming Statute § 1-39-104(a), and all other state law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity.

- k. Third-Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Permit shall not be construed so as to create such status. The rights, duties and obligations contained in this Permit shall operate only between the parties to this Permit, and shall inure solely to the benefit of the parties to this Permit. The provisions of this Permit are intended only to assist the parties in determining and performing their obligations under this Permit.
- l. Titles Not Controlling.** Titles of paragraphs are for reference only, and shall not be used to construe the language in this Permit.

m. **Waiver.** The waiver of any breach of any term or condition in this Permit shall not be deemed a waiver of any prior or subsequent breach.

n. **Work in Vicinity of Other Utilities.** The Permittee is hereby advised that any work operation in the vicinity of electric power lines shall be in compliance with Wyoming Statute § 37-3-301 *et seq.*, *Wyoming High Voltage Power Lines and Safety Restrictions Act*, and the Permittee is further advised to comply with the provisions of Wyoming Statute § 37-12-301 *et seq.*, *Damage to Underground Public Utilities Facilities*.

7. **Signatures.** In witness thereof, the parties to this Permit, either personally or through their duly authorized representatives, have executed this Permit on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Permit.

The effective date of this Permit is the date of the signature last affixed to this page.

PERMITEE

Printed Name and Title

Signature

Date

(_____) _____ - _____
Phone Number

(_____) _____ - _____
Fax Number

E-mail

PERMITEE SITE CONTACT PERSON

_____ (_____) _____ - _____
Printed Name and Title Cell Phone Number

AGENCY

District Representative Printed Name and Title

Signature

Date