

ORDER OF THE COMMISSIONERS COURT OF FALLS COUNTY, TEXAS  
ADOPTING ROAD CUT AND UTILITY/PIPELINE LOCATION POLICY

To preserve, protect and assure the repair of the County Roads of Falls County for the benefit of the citizens of Falls County and the traveling public; and for the protection of the County against repair costs, and

To assure that lines placed in the right-of-way of County Roads do not interfere with road maintenance or the paramount public purposes of said roads.

THE COMMISSIONERS COURT OF FALLS COUNTY, TEXAS HEREBY:

Adopts the "Road Cut and Utility/Pipeline Location Policy" attached hereto, along with its appendices;

IT IS SO ORDERED.

ADOPTED and EFFECTIVE this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
County Judge

Attest:

\_\_\_\_\_  
County Clerk

## ROAD CUT AND UTILITY/PIPELINE LOCATION POLICY

### **PART I Persons/Companies other than Public Utilities and Common Carriers.**

Part I is not applicable to a public utility as defined in Chapter 181 of the Texas Utilities Code or a common carrier covered by Chapter 111 of the Texas Natural Resources Code.

If a road cut is allowed in lieu of a bore, the following shall apply:

1. The company seeking the road cut must file an application for a permit with the County Judge **[Appendix A]**;
2. The application must be accompanied by a permit fee of—
  - \$100 for a 0-3” cut
  - \$175 for a 3-6” cut
  - \$250 for a 6-12” cut
  - \$400 for a 12-18” cut
  - \$500 for a cut in excess of 18”

An applicant seeking multiple road cuts may apply with a single application however, *a separate permit fee must be paid for each proposed cut.*

3. The application will only be approved and a permit issued if the applicant executes the County’s “Road Cut Agreement” **[Appendix B]** and provides, if required, any necessary assurance for performance of repairs. The Judge’s signature on the Road Cut Agreement constitutes the issuance of a permit. The County Judge is hereby authorized to execute any Road Cut Agreements for which he reasonably determines a road cut permit should issue.
4. Unless a deeper location is required by law or applicable regulation, the line shall be laid at a minimum depth of 24 inches (24”), but may be required to be laid at a deeper minimum depth if the County determines such is necessary to prevent interference with road maintenance, or to protect the traveling public.
5. The permittee must, after construction, cause the road to be repaired to at least its condition before construction, at its sole cost and expense. The repairs must comply with County specifications and reasonable directives given by the County Road Supervisor.

Paving, if any, must be replaced by an asphaltic patch meeting the specifications of the County. All road base and topping materials must be in compliance with the specifications or directives of the County. Cuts on paved roads must be saw cuts.

Unless otherwise directed by the County, the following repair specifications shall apply:

Gravel Road (assuming minimum depth of 24")

- Material—bank run gravel compacted to a minimum of 95% AASHTO T-99 density

Paved Road (assuming minimum depth of 24")

- Topping Material—hot mix asphalt placed and compacted to match the existing surface thickness, but not less than 1 and 1/2" thick;
- Next 6"—central-mixed cement stabilized base or THD Item 292 black base (compacted to a minimum of 95% AASHTO T-99 density), or 2000 psi concrete;
- Remaining depth-- bank run gravel compacted to a minimum of 95% AASHTO T-99 density

A permittee shall remain responsible to repair, upon request by the County, the said area of the County Road, or to reimburse the County for such repairs, where the original repairs have settled, or otherwise are not satisfactory to the County.

6. In the circumstance of a major construction, unacceptable past repairs, or demonstrated concern over financial ability to comply with the obligations set forth herein, the County may require the Company to provide a surety bond, letter of credit, or certified funds deposit in the amount of the estimated cost of repairs before construction proceeds.

7. In any circumstance where the road cut will exceed 12", assurance of performance in the form of a surety bond, letter of credit or certified funds placed on deposit with the County will be required as set forth below:

<u>Paved Road</u>	
10"-12"	\$2,000
12"-18"	\$3,000
18" and above	\$5,000

<u>Gravel Road</u>	
10"-12"	\$500
12"-18"	\$750
18" and above	\$1,000

The assurance will cover a period of one year after installation. Each road cut requires assurance. A company seeking to make multiple road cuts may submit a single form of assurance in the cumulative amount applicable to the number of cuts sought. The assurance will be returned to the permittee after one year has passed from installation to the extent it has not been necessary to call upon the assurance to meet the permittee's obligations.

**PART II Common Carriers.**

An oil pipeline operator that is a common carrier under Chapter 111 of the Texas Natural Resources Code is subject to all of the requirements of Section 111.020 of the Texas Natural Resources Code.

Any road cut must be approved by the Commissioners Court. The common carrier shall submit the Common Carrier Application for Road Cut [**Appendix C**] to the County Judge, who will place it on the agenda for the next Commissioners Court meeting at which it may lawfully be considered. In accordance with Section 111.020 of the Texas Natural Resources Code, the right of a common carrier to cross a County Road is only on condition that:

- (1) it does not interfere with traffic on the road or highway;
- (2) the road or highway is promptly restored to its former condition of usefulness;
- (3) the restoration of the road or highway is subject also to the supervision of the commissioners court; and
- (4) no pipes or pipelines are laid parallel with and on a public highway closer than 15 feet from the improved section of the highway except with the approval and under the direction of the commissioners court of the county in which the public highway is located.

The Common Carrier Application for Road Cut must be accompanied by a permit fee of—

- \$100 for a 0-3" cut
- \$175 for a 3-6" cut
- \$250 for a 6-12" cut
- \$400 for a 12-18" cut
- \$500 for a cut in excess of 18"

An applicant seeking multiple road cuts may apply with a single application however, *a separate permit fee must be paid for each proposed cut.*

**The common carrier MUST compensate the county for any damage done to the public road.**

The following installation and repair specifications apply:

Unless a deeper location is required by law or applicable regulation, the line shall be laid at a minimum depth of 24 inches (24"), but may be required to be laid at a deeper minimum depth if the County

determines such is necessary to prevent interference with road maintenance, or to protect the traveling public.

Repair--Gravel Road (assuming minimum depth of 24")

- Material—bank run gravel compacted to a minimum of 95% AASHTO T-99 density

Repair--Paved Road (assuming minimum depth of 24")

- Topping Material—hot mix asphalt placed and compacted to match the existing surface thickness, but not less than 1 and 1/2" thick;
- Next 6"—central-mixed cement stabilized base or THD Item 292 black base (compacted to a minimum of 95% AASHTO T-99 density), or 2000 psi concrete;
- Remaining depth-- bank run gravel compacted to a minimum of 95% AASHTO T-99 density

A common carrier shall remain responsible to repair, upon request by the County, the said area of the County Road, or to reimburse the County for such repairs, where the original repairs have settled, or otherwise are not satisfactory to the County.

**The foregoing rules apply equally to any location of lines by a common carrier in the right-of-way of a County Road, whether or not a road cut is involved. If a road cut is not involved, the common carrier must submit the "Pipeline Notification" [Appendix "D"] instead of the Common Carrier Application for Road Cut and is not required to pay a permit fee; but all other requirements and responsibilities set forth above are the same.**

**Part III Public Utilities.**

1. Under authority of the Texas Local Government Code Chapter 402 and the Texas Utility Code Chapter 181, Falls County may designate the location in the right-of-way where the utility may place the water, electric, and gas lines. Under the statutory and common law of this State, no utility may locate a line or equipment in a manner which would inconvenience the public's use of a road, including interference with County maintenance.
2. These policies are not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where these policies and another instrument conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
3. It is hereby declared to be the intention of the Commissioners Court that the sections, paragraphs, sentences, clauses and phrases of these Guidelines are severable, and if any section, paragraph, sentence, clause, or phrase of these Guidelines shall be declared void, ineffective or unconstitutional by the valid judgment or final decree of any court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases hereof, since the same would have been enacted by this Court without the incorporation herein of any such void, ineffective or unconstitutional section, paragraph, sentence, clause or phrase.

4. These policies shall not create any liability on the part of Falls County, or on any officer or employee thereof, for any damages that are alleged result from reliance on these policies or any administrative decision made hereunder.

## DEFINITIONS

**Underground Utility Lines:** Any pipe, conduit, cable or other device placed underground for the transmission of gases, liquids, electricity or electronic signals, as defined by the Texas Local Government Code Chapter 402 and the Texas Utility Code Chapter 181.

**Utility Line Notification:** An official notification from a utility company or an individual which notifies the Falls County Commissioners' Court or their designated representative of a proposal to place an underground utility line within the County right-of-way.

## GENERAL PROVISIONS

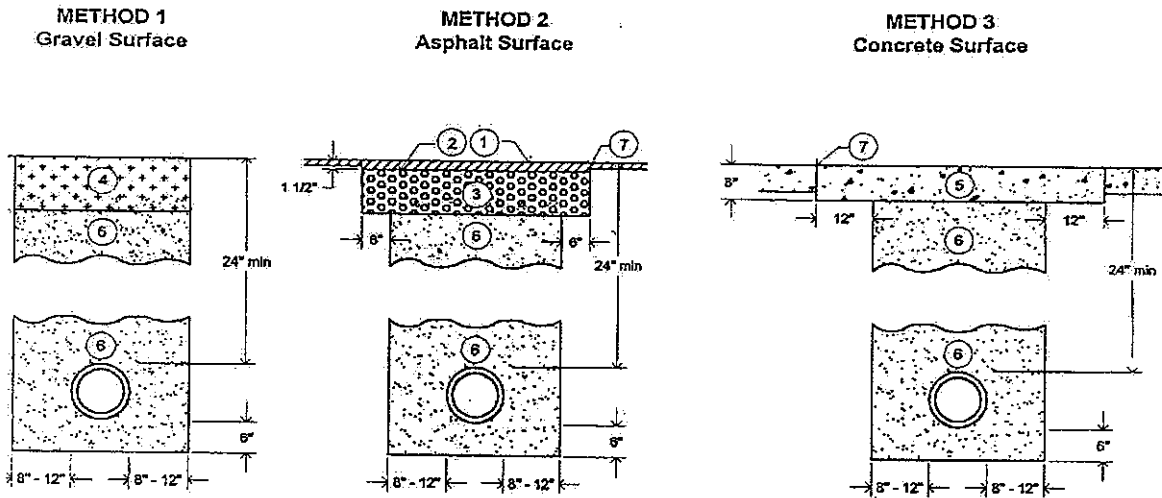
1. These policies shall apply to all County streets and roads located in Falls County, Texas.
2. In order to protect the public safety, maintain the quality of County roads and streets, prevent the disruption of County maintenance projects, and better coordinate the placement of underground utilities in the County right(s)-of-way in a manner that does not inconvenience the public in the use of the road or street, a minimum of seven (7) days notice to the County should be given prior to any utility line placement. The Utility Line Notification form [**Appendix E**] should serve as the official notification to the County. The Utility Line Notification should be accompanied by a map, plat, or blueprint not exceeding 8.5 inches by 14 inches in dimensions indicating the exact locations of all proposed underground utility line placements along or across County roads.
3. In accordance with the Texas Local Government Code Chapter 402 and the Texas Utility Code Chapter 181, the Commissioners' Court may designate the location in the right-of-way where the utility may place the line. However, in order for County employees to perform routine maintenance on a County road right-of-way as described in the Texas Utility Code Chapter 251, all utility lines shall have a minimum clearance of twenty-four (24) inches below borrow ditch line, roadway, or natural ground, whichever is lower.
4. The utility line owner is responsible for repairing to "as good" or better condition all roadways, surfaces, ditch lines, culverts, or natural ground affected by the installation of underground utility lines, or subsequent repair work to them. Should inspection by the County reveal that the roadway, surface, ditch line, culvert, or natural ground affected by the installation of the underground utility line is not in a condition as good or better than that existing prior to installation, the County Judge shall notify the utility line owner to effect repairs immediately. Should the utility line owner fail to make repairs within five (5) days or should the repair work be deemed unsatisfactory by the County, County forces may do the repair work with the cost thereof being charged to the utility line owner. If the County has not received payment for the work done by the County within thirty (30) days of the date of the bill, the County will take legal steps to collect the amount billed from the utility line owner.

5. **In order to protect the public safety, maintain the quality of County roads and streets, and minimize any unnecessary inconvenience to the public in the use of the road or street, the preferred method of crossing a roadway with an underground utility line shall be by drilling or boring beneath the roadway surface in such a manner that the roadway section above the line is not disturbed. However, it is recognized by the Commissioners Court that there may be situations requiring alternate methods of crossing roadways with underground utility lines. Therefore, provision is made as part of these policies to show three acceptable alternate methods of crossing.**
6. The utility or its contractor must take appropriate safety precautions to protect the public during its construction/installation activities. This may include, where appropriate, the use of barricades, signs, flagmen and/or other such measures. Care should be taken to avoid closing the road to thru traffic except for very short periods of time. The activities, such as a crossing of the road, should, where possible, be undertaken so that no more than one-half of the road is closed to thru traffic at one time.
7. Should the County determine it necessary to relocate, or adjust, any underground utility line(s) located within the County road right-of-way, it shall be the responsibility of the utility line owner to do so at no cost to Falls County. The utility line owner will be notified in accordance with the Texas Local Government Code Chapter 402 and the Texas Utility Code Chapter 181 of any required relocation.

#### ADMINISTRATION

1. The County Judge is hereby appointed by the Falls County Commissioners' Court to serve as the administrator of these policies.
2. The County Judge or his designee shall receive all Utility Line Notifications, designate the location of the proposed utility line placement in accordance with the Texas Local Government Code Chapter 402 and the Texas Utility Code Chapter 181, and notify the utility owner regarding the location designation.
3. The County Judge shall notify the appropriate utility line owners in accordance with the Texas Local Government Code Chapter 402 and the Texas Utility Code Chapter 181 should it become necessary for underground utility lines in County Road right-of-way to be relocated.
4. The County Judge may cause the inspection of all work done under a Utility Line Notification and shall notify the utility of any deficiencies in installation or alteration after the work has been completed and of such actions that may be required to make the work comply with these policies. If such corrections are not made within five (5) days of such notice, the County may do the repair work with cost thereof being charged to the utility line owner. If the County has not received payment for the work done by the County within thirty (30) days of the date of the bill, the County Judge shall bring the matter before the Commissioners' Court for its decision as to such actions to be taken under these policies.
5. If the Commissioners' Court determines that the underground utility installation is not in compliance with these policies, the County Judge, in addition to any other actions taken under these policies, may mail a letter notifying the Texas Public Utility Commission of the deficient action(s) of the utility. This shall include all instances where underground utility lines are placed along or across County roads without notifying Falls County as required.

ALTERNATE METHODS FOR TRENCHING, BACKFILLING, AND RESURFACING UNDERGROUND UTILITY LINE CROSSINGS OF GRAVELED OR PAVED COUNTY ROADS IN McLENNAN COUNTY, TEXAS. (To be employed in lieu of drilling or boring under road surfaces only upon request by utility line owner and with specific approval by the County.)



ITEM NOMENCLATURE

1. Hot Mix Asphalt Concrete – placed and compacted to match existing surface thickness, but not less than 1 ½ inches thick.
2. Tack Coat – emulsion prime
3. Central-mixed Cement Stabilized Base or THD Item 292 Black Base (compacted to minimum of 95% AASHTO T-99 density), or 2000 PSI concrete.
4. Bank Run Gravel mechanically compacted to a minimum of 95% AASHTO T-99 density.
5. 2500 PSI Concrete, 8” minimum thickness, with #6 reinforcing steel placed at mid-depth the full width and length of the cut, 15” tied spacing in both directions.
6. Bank Run Gravel or clean coarse sand compacted either mechanically in one-foot lifts or by “water-jetting” to a minimum of 95% AASHTO T-99 density.
7. Saw cut edge of existing pavement.



**NOTE: Cost of all tests of materials and density reasonably deemed appropriate and /or necessary by the County shall be borne by the utility owner causing crossing of County road right-of-way.**

# APPENDIX A

APPLICATION FOR ROAD CUT(S)

1. Applicant information:

Name:

Address:

Telephone #:

e-mail:

Contact:

2. Road(s) to be cut:

3. Location(s) of cut(s). [must be shown on an attached map or maps in addition to being described herein]

4. Reason for requested cut(s):

5. Size of cut(s) (circle one)

0-3" cut wide

3-6" cut wide

6-12" cut wide

12-18" cut wide

>18" wide

If >18" is indicated, identify the proposed width of the cut \_\_\_\_\_.

6. Line to be buried at \_\_\_\_\_" below road surface. [must be at least 24"].

7. Proposed start date and time to complete:

8. The applicable permit fee(s), assurances, and the executed Road Cut Agreement are being submitted herewith. \_\_\_\_yes \_\_\_\_no

The application must be accompanied by a permit fee of—

\$100 for a 0-3" cut

\$175 for a 3-6" cut

\$250 for a 6-12" cut

\$400 for a 12-18" cut

\$500 for a cut in excess of 18"

An applicant seeking multiple road cuts may apply with a single application however, *a separate permit fee must be paid for each proposed cut.*

Applicant: \_\_\_\_\_

By: \_\_\_\_\_ [printed name] \_\_\_\_\_ [signature]

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX B

## **ROAD CUT AGREEMENT (In Lieu of Road Bore)**

This Agreement is entered into by and between Falls County, Texas (hereinafter "County") and \_\_\_\_\_ (hereinafter "Company") on the date indicated by the signature of the last to sign as set out below.

1. Company, which is not a public utility as defined in Chapter 181 of the Texas Utilities Code, desires to construct a portion of a pipeline/utility line (hereinafter "line") across and under a County Road. [If cuts to more than one County Road being requested—the term County Road shall mean County Roads].

Identification of County Road(s) involved:

2. The County has responsibility for maintenance of the County Road, and will agree to the Company's proposed construction, which will involve disturbance of the County Road, only under the terms and conditions set forth herein.
3. Nothing herein shall be interpreted as the County granting an easement, right or interest in the property upon which the road is located, unless the County actually owns the underlying fee. Rather, this Agreement merely addresses the terms and conditions under which the County will agree to construction of a line across and under a County Road.
4. Company agrees to construct the line only in the location on the County Road(s) shown in Exhibit "A" hereto.
5. Installation of the line shall be at the sole cost and expense of the Company.
6. Unless a deeper location is required by law or applicable regulation, the line shall be laid at a minimum depth of 24 inches (24"), but may be required to be laid at a deeper minimum depth if the County determines such is necessary to prevent interference with road maintenance, or to protect the traveling public.
7. Construction shall be carried out in a good and workmanlike manner, with as little disruption of the road surface and subsurface as possible. The Company shall, after construction, cause the road to be repaired to at least its condition before construction, at its sole cost and expense. The repairs must comply with County specifications and reasonable directives given by the County Road Supervisor. Paving, if any, must be replaced by an asphaltic patch meeting the specifications of the County. All road base and topping materials must be in compliance with the specifications or directives of the County. Cuts on paved roads must be saw cuts.

Unless otherwise directed by the County, the following repair specifications shall apply:

Gravel Road (assuming minimum depth of 24")

- Material—bank run gravel compacted to a minimum of 95% AASHTO T-99 density

Paved Road (assuming minimum depth of 24")

- Topping Material—hot mix asphalt placed and compacted to match the existing surface thickness, but not less than 1 and 1/2" thick;
- Next 6"—central-mixed cement stabilized base or THD Item 292 black base (compacted to a minimum of 95% AASHTO T-99 density), or 2000 psi concrete;
- Remaining depth— bank run gravel compacted to a minimum of 95% AASHTO T-99 density

8. Company shall remain responsible to repair, upon request by the County, the said area of the County Road, or to reimburse the County for such repairs, where the original repairs have settled, or otherwise are not satisfactory to the County.

The Company shall also be responsible for any repairs to the road relating to operation of the line, such as damage caused by leakage.

COMPANY EXPRESSLY ACKNOWLEDGES THAT SETTLING OF THE ORIGINAL REPAIRS WILL USUALLY REQUIRE ADDITIONAL FUTURE REPAIRS, AND THAT THE COMPANY WILL BE RESPONSIBLE FOR SUCH REPAIRS---WHICH SHALL BE MADE PROMPTLY AT THE REQUEST OF THE COUNTY, AND TO THE SPECIFICATIONS REQUIRED BY THE COUNTY.

9. The County shall not be liable for any damage caused to the Company's line(s) by road traffic or the County's road maintenance activities. In the event of a need to repair or replace a line, the Company shall be subject to the same obligations and responsibilities as set forth herein for original construction. The County makes no representations or warranties as to the suitability of the County Road for the line, or as to the ownership of the fee interest in the property upon which the road is located.
10. The construction work shall be conducted so as to minimize interference with traffic. The construction must be conducted in such a manner that the road is not completely blocked to traffic at any time. Company is solely responsible for all safety precautions to protect the public, its employees, and its contractors from harm during construction.
11. Company will relocate the line at its sole cost and expense if the County redesigns or reconstructs the road in such a manner as to require relocation.
12. Pipelines shall be heavy gauge. Encasements may be required if such is determined to be in the best interest of the County.
13. Nothing herein shall be construed to waive the County's control over its roads as set forth in the Transportation Code or the Local Government Code. All powers set forth therein are expressly reserved to the County.
14. Company hereby indemnifies and agrees to hold harmless the County and its employees, officials, officers and agents from any and all claims, causes of action, damages, losses, injuries or penalties caused in whole or in part by the Company, the construction/installation/repair of the line(s), or the operation of the line(s). This includes any claims arising from vehicular accidents, explosions, or other matters dealing in any way with the installation, repair or operation of the

line(s); and includes any property damage, clean-up costs, penalties or fines resulting in any way from the installation, repair or operation of the line(s).

15. In the circumstance of a major construction, unacceptable past repairs, or demonstrated concern over financial ability to comply with the obligations set forth herein, the County may require the Company to provide a surety bond, letter of credit, or certified funds deposit in the amount of the estimated cost of repairs before construction proceeds.
16. In any circumstance where the road cut will exceed 12", assurance of performance of repairs in the form of a surety bond, letter of credit or certified funds placed on deposit with the County will be required as set forth below:

Paved Road

10"-12"	\$2,000
12+"-18"	\$3,000
18+'' and above	\$5,000

Gravel Road

10"-12"	\$500
12+''-18"	\$750
18+'' and above	\$1,000

The assurance will cover a period of one year after installation. Each road cut requires assurance. A company seeking to make multiple road cuts may submit a single form of assurance in the cumulative amount applicable for the number of cuts sought.

17. The venue of any dispute or litigation under this Agreement or arising out of the matters made the subject of this Agreement shall be in a court of competent jurisdiction in Falls County, Texas. Texas law shall apply.
18. Company has paid the County the permit fee required for each road cut covered by this Agreement in accordance with the County's Road Cut Policy.

**COMPANY:**

**FALLS COUNTY**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
County Judge  
Date: \_\_\_\_\_



# APPENDIX C

**COMMON CARRER APPLICATION FOR ROAD CUT(S)**

1. Applicant information:

Name:

Address:

Telephone #:

e-mail:

Contact:

2. Road(s) to be cut:

3. Location(s) of cut(s). [must be shown on an attached map or maps in addition to being described herein]

4. Reason for requested cut(s):

5. Size of cut(s) (circle one)

- 0-3" cut wide
- 3-6" cut wide
- 6-12" cut wide
- 12-18" cut wide
- >18" wide

If >18" is indicated, identify the proposed width of the cut \_\_\_\_\_.

6. Line to be buried at \_\_\_\_\_" below road surface. [must be at least 24"].

7. Proposed start date and time to complete:

8. The applicable permit fee(s) are being submitted herewith. \_\_\_\_ yes \_\_\_\_ no

The application must be accompanied by a permit fee of—

- \$100 for a 0-3" cut
- \$175 for a 3-6" cut
- \$250 for a 6-12" cut
- \$400 for a 12-18" cut
- \$500 for a cut in excess of 18"

An applicant seeking multiple road cuts may apply with a single application however, *a separate permit fee must be paid for each proposed cut.*

Applicant: \_\_\_\_\_

By: \_\_\_\_\_ [printed name] \_\_\_\_\_ [signature]

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX D

**PIPELINE NOTIFICATION FORM**

1. Company information:

Name:

Address:

Telephone #:

e-mail:

Contact:

Road(s) involved:

Commodity Transported:

Location(s) of line(s) in ROW. [must be shown on an attached map or maps in addition to being described herein]

Line(s) to be buried at \_\_\_\_\_" below ROW surface. [must be at least 24"].

Company: \_\_\_\_\_  
By: \_\_\_\_\_ [printed name] \_\_\_\_\_ [signature]  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# APPENDIX E

**UTILITY NOTIFICATION FORM**  
**(Road Cuts and Line Locations)**

1. Utility information:

Name:

Address:

Telephone #:

e-mail:

Contact:

2. Road Cuts.

Road(s) to be cut:

Location(s) of cut(s). [must be shown on an attached map or maps in addition to being described herein]

Reason for requested cut(s):



Size of cut(s) (circle one)

0-3" cut wide

3-6" cut wide

6-12" cut wide

12-18" cut wide

>18" wide

If >18" is indicated, identify the proposed width of the cut \_\_\_\_\_.

Line to be buried at \_\_\_\_\_" below road surface. [must be at least 24"].

Proposed start date and time to complete:

3. Line Location in Right-of-Way.

Road(s) involved:

Utility Type:

Location(s) of line(s) in ROW. [must be shown on an attached map or maps in addition to being described herein]

Line to be buried at \_\_\_\_\_" below ROW surface. [must be at least 24"].

Utility: \_\_\_\_\_

By: \_\_\_\_\_ [printed name] \_\_\_\_\_ [signature]

Title: \_\_\_\_\_

Date: \_\_\_\_\_