

Right of Way Application No. 15865
Affecting a 30 foot wide strip of land
in U.S. Government Lots 5, 6, 7, 11
and 22 in Section 36, Township 11
North, Range 49 East, P.M.M.,
Prairie County, Montana

EASEMENT NO. D-14257

RIGHT OF WAY DEED

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF MONTANA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Know ye that the State of Montana (hereinafter referred to as "Grantor"), in consideration of the sum of One Thousand One Hundred Seventy Seven and 00/100 Dollars (\$1,177.00), now paid, grants to Cenex Pipeline, LLC (hereinafter referred to as "Grantee") a right of way for a 10 inch diameter underground liquid petroleum pipeline upon and across State lands, as follows:

A 30 foot wide strip of land in U.S. Government Lots 5, 6, 7, 11 and 22 in Section 36, Township 11 North, Range 49 East, Principal Meridian Montana, Prairie County, Montana, more particularly described as follows:

A tract or strip of land 30 feet wide, 15 feet on each side of a centerline as shown and depicted on the Exhibit attached hereto and made a part hereof and containing 2.941 acres, more or less.

The grant of this easement is subject to the following conditions:

The Grantee shall comply with the Montana Antiquities Act, Title 22, Chapter 3, MCA. In particular, Sections 22-3, Parts 4 and 8.

It is also agreed that the Grantee shall comply with such rules or regulations as may be hereafter imposed by the State Board of Land Commissioners to insure that the environment will be adequately protected and the public health and safety not be endangered.

The Grantee shall be responsible for controlling any noxious weeds introduced by Grantee's activity on State-owned land. The Grantee's methods of control must be reviewed by the Grantor's Area Field Office that has jurisdiction for that locale.

The Grantee shall comply with the Montana County Noxious Weed Management Act, Section 7-22-2101 MCA et. seq., as follows:

The Grantee shall notify the local weed board that is responsible for that geographical area that the project is located in. If the Grantee disturbs vegetation for any reason, Grantee shall be required to revegetate the disturbed area. The Grantee shall submit to the local weed board a written plan specifying the methods to be used to accomplish revegetation. The plan must describe the time and method of seeding; fertilization, recommended plant species, use of weed-free

PLAINTIFFS'
EXHIBIT

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seed, and the weed management procedures to be used. This plan is subject to approval by the local weed board, and therefore must be signed by the chairman of the board.

The Grantee herein specifically agrees that the said 10 inch diameter liquid petroleum pipeline shall be buried below plow depth so as not to interfere with the use and cultivation of the land. It is also understood and agreed that the State and its lessees and purchasers shall have the right to occupy, use and fully enjoy the surface of the right of way hereby granted, to seed, cultivate and harvest crops thereon; and that the said Grantee and its successors and assigns shall pay any damages which may result to the crops, fences and other property or interests of the lessees and purchasers from the State by reason of the laying, maintaining, operating or removing of the said 10 inch diameter liquid petroleum pipeline, and that the amount of such damages if not mutually agreed upon, shall be ascertained and determined by three disinterested persons, one of whom shall be appointed by the lessee or purchaser of the land, his heirs or assigns, one by the Grantee herein, its successors or assigns, and the third by the two so appointed. The award of such three persons shall be final and conclusive on both parties; and that the State and its lessees and/or purchasers will not be liable for any damages to the above mentioned 10 inch diameter liquid petroleum pipeline resulting from the occupancy, use and enjoyment of the surface of the right of way hereby granted.

It is further agreed by the Grantee that Grantee shall backfill, grade, and revegetate all disturbed areas to the satisfaction of the State. If the first seeding of compatible grass species does not germinate to the satisfaction of the Department, the Grantee may be required to reseed in those areas open to erosion and weeds. Upon termination of this easement, Grantee shall reclaim the entire area in accordance with this paragraph.

Provided, further, that the right of way deed granted herein shall be assignable by Grantee only with the written approval of the Director, Department of Natural Resources and Conservation.

Provided, further, that permission must be obtained in writing, from the Director, Department of Natural Resources and Conservation, prior to the construction of any improvements on the right of way herein granted which is 30 feet wide, 15 feet on each side of the centerline.

Provided, further, Grantee shall immediately contact Grantor's area office in Miles City, Montana upon discovery of a leak or spill. Grantee shall bear all costs associated with clean-up and remediation of the site and shall defend and save the Grantor harmless from all claims and lawsuits that may result from any and all damages, injury or death to persons and/or property that occur upon or about said land caused by or arising out of Grantee's use of the subject area hereunder.

Provided, however, that the right of way granted herein is not exclusive and does not interfere with the Grantor and its successor, assigns or purchasers of State products or other parties authorized to use State land, in their right, at all times to go upon, cross and re-cross the land covered by said right of way, at any point, for any and all purposes in a manner that will not unreasonably interfere with the rights granted to Grantee.

Provided, that Grantor may terminate this right of way for a material breach of any of the conditions or provisions of this deed. Before termination, the Board shall give Grantee written notice of intent to terminate and a reasonable period to cure the breach.

It is further provided that whenever said lands herein granted as a right of way shall cease to be used for such purpose, the right of way shall terminate upon notice to that effect being given to the said grantee named herein.

IN TESTIMONY WHEREOF, the State of Montana has caused these presents to be executed by the Governor, and to be attested by the Secretary of State, and countersigned by the Director, Department of Natural Resources and Conservation, and the Great Seal of the State, and the Seal of the State Board of Land Commissioners to be hereunto affixed this 13 day of January, A.D. 2012.

D-000744



[Handwritten Signature]
.....
Governor of the State of Montana

ATTEST:

[Handwritten Signature]
.....
Secretary of State

Countersigned by:

[Handwritten Signature]
.....
Director, Department of Natural
Resources and Conservation



Accepted and Approved:

[Handwritten Signature]
.....
PRESIDENT, CENEX PIPELINE LLC
Applicant
.....
JOHN E. TRAEGER
Printed Name