

FILED SARPY CO. NE.

INSTRUMENT NUMBER

2005-41421

2005 NOV -8 A 9:39

*Glenn J. Dowling*

REGISTER OF DEEDS

COUNTER 10 C.E. DM  
VERIFY 10 D.E. DM  
PROOF 10  
FEES \$ 25.50  
CHECK# 7009473  
CHG          CASH           
REFUND          CREDIT           
NCR         

(Drafted by & when filed return to: Magellan Pipeline Company, L.P., P. O. Box 22186, MD 27-4 (S. Guthrie), Tulsa, Oklahoma 74121-2186, 918/573-0702.)

## CORRECTED ENCROACHMENT AGREEMENT

This Corrected Encroachment Agreement ("**Agreement**") is correcting and replacing the Encroachment Agreement filed of record on April 12, 2005, Instrument Number 2005-11356, and is made and entered into by and between Magellan Pipeline Company, L.P., a Delaware limited liability company, whose address is P.O. Box 22186, Tulsa, Oklahoma, 74121-2186, (hereinafter called "**Magellan**"), and Dale L. and Cynthia E. Henkel, their successors, assigns and grantees, hereinafter called "**Owner**", whether one or more, whose mailing address is 2113 Crest Ridge Drive, Papillion, Nebraska, 68133.

### WITNESSETH:

WHEREAS, **Owner** represents and warrants that **Owner** owns all the certain land legally described as Lot Eighty-Eight (88), Eagle Crest, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, also known as 2113 Crest Ridge Drive, Papillion, Nebraska, 68133 (hereinafter "**Owner's Land**").

WHEREAS, **Magellan** is the owner of certain pipelines, pipeline facilities and appurtenances (hereinafter referred to as the "**Magellan Facilities**") and easement rights therefor (hereinafter referred to as the "**Easement**"), which burden and encumber **Owner's Land** pursuant to those certain instruments recorded in the records of Sarpy County, Nebraska described as follows:

- 1) Right of Way Agreement as to a pipeline or pipelines dated February 11, 1946, from Peter Hansen and Marie Hansen, his wife, in favor of Great Lakes Pipe Line Company (Magellan's predecessor in title), its successors and assigns, and filed for record in Book 12 at Page 632; and
- 2) Conveyance and Assignment from Great Lakes Pipe Line Company to Williams Brothers Pipe Line Company (Magellan's predecessor in title) dated March 15, 1966, and filed for record in Book 42 at Page 565; and
- 3) Partial Release and Grant of Right of Way dated May 28, 1996, between Williams Pipe Line Company, (Magellan's predecessor in title), its successors and assigns, and Eagle Crest Development, L.L.C., recorded on June 10, 1996 as Instrument Number 96-11146, which defined the

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Easement to a 100-foot corridor, (hereinafter **Magellan's Easement Tract**); and

WHEREAS, **Owner** and Magellan have agreed to the approval by Magellan of the construction and placement of a privacy fence (hereinafter called the "**Encroachment**") on **Magellan's Easement Tract** on the following terms;

NOW, THEREFORE, in consideration of the covenants and agreements herein and other good and valuable consideration, the receipt of which is hereby acknowledged, **Magellan**, subject to the following terms and provisions, hereby consents to the **Encroachment** listed below as an "**Approved Encroachment**":

**Terms and Provisions:**

1. Approved Encroachment. The **Approved Encroachment** is limited to the following:

(a) An existing privacy fence enclosing **Owner's land** (hereinafter referred to as the "**Fence**") which crosses and encloses **Magellan's Easement Tract**. The **Fence** shall at all times be constructed or modified as it presently exists and as further modified by removal of every other picket along a six foot panel on the southwest corner of Defendant's fence running north of the southwest fence post and along a six foot panel located on the southeast of Defendant's fence running north of the southeast fencepost marking the southern boundary of Owner's Land. A photograph illustrating the necessary modifications as applied to the eastside six foot panel of the **fence** is attached hereto as Exhibit "A." The modifications shown on Exhibit "A" shall also be applied to the westside six foot panel. Any cost of necessary construction modifications shall be borne by **Owner**.

(b) It is only with the above modifications that the **Encroachment** is hereby approved by **Magellan**.

(c) No other right or interest in the **Easement Tract** granted in favor of **Magellan** is or shall be disturbed or effected other than as expressly stated by the terms of this **Encroachment Agreement** and except as stated herein **Magellan** shall have the same rights granted in those certain documents referred to above which are recorded in the records of Sarpy County, Nebraska in the office of register of Deeds of Sarpy County Nebraska..

2. Binding Upon Successors. The undersigned parties agree:

That the terms and conditions of this **Agreement** will be binding upon and inure to the benefit of the parties hereto, their successors, assigns and grantees and is intended to run with the land. This **Agreement** may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. This **Agreement** shall become effective upon its complete execution by the parties hereto.

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IN WITNESS WHEREOF, the undersigning parties have set their hands effective as of this 11<sup>th</sup> day of April, 2005.

**Magellan Pipeline Company, L.P.**

By Magellan Pipeline GP, LLC, Its General Partner

By: Richard A. Olson

Printed Name: Richard A. Olson

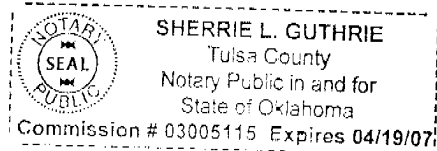
Title: Vice President

STATE OF OKLAHOMA     )  
  ) SS.  
COUNTY OF TULSA     )

SWORN before me, a Notary Public, on this 11<sup>th</sup> day of April, 2005.

Sherrie L. Guthrie  
Notary Public  
**SHERRIE L. GUTHRIE**

[ Seal ]



C

Dale L. Henkel  
Dale L. Henkel


  
Cynthia E. Henkel

STATE OF NEBRASKA )  
 ) SS.  
COUNTY OF SARPY )

SWORN before me, a Notary Public, on this 9<sup>th</sup> day of July, 2005.



[ Seal ]

  
\_\_\_\_\_  
Notary Public

2005-41421D

