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RDO - Carlsbad Resource Area

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER: NM NM-99504

1. A right-of-way is hereby granted pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185)

2. Nature of Interest:

- a. By this instrument, the holder:

Penwell Energy, Inc.
600 N. Marienfeld, Suite 1100
Midland, TX 79701

receives a right to construct, operate, maintain, and terminate a right-of-way for a 3-inch gas pipeline, on Federal lands described as follows:

T. 20 S., R. 28 E., NMPM
Sec.5, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec.6, Lot 6, S $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The lands described above contain a total length of 1.071 miles.

- b. The right-of-way or permit area granted herein is 50 feet wide, 5,655.4 feet long and contains 6.492 acres, more or less. If a site type facility, the facility contains _____ acres.
 - c. This instrument shall terminate on March 23, 2028, 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other ~~terms and conditions that the authorized officer deems necessary to protect~~ the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the Federal lands within 90 days, or otherwise disposed of as provided in paragraph (4)(c) or as directed by the authorized officer.
- c. The stipulations, plans, maps, or designs set forth in Exhibits A, B, & C, dated December 5, 1997, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- d. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

X Bill Pin
(Signature of Holder)

X Manager of Operations
(Title)

X 3/17/98
(Date)

Lee D. Lara
(Signature of Authorized Officer)
Acting Area Manager, Carlsbad Resource Area
(Title)

MAR 23 1998

(Effective Date of Grant)

EXHIBIT A
(December 5, 1997)

BLM Serial Number: NM-99504
Company Reference: Angell "6" Fed. #1

BURIED PIPELINE STIPULATIONS FOR THE ROSWELL DISTRICT, BLM

The holder agrees to comply with the following stipulations to the satisfaction of the Authorized Officer, BLM.

1. The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this grant.
2. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized by this grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
3. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et. seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way). This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
4. If, during any phase of the construction, operation, maintenance, or termination of the pipeline, any oil or other pollutant should be discharged, impacting Federal lands, the control and total removal, disposal, and cleaning up of such oil or other pollutant, wherever found, shall be the responsibility of the holder, regardless of fault. Upon failure of the holder to control, dispose of, or clean up such discharge on or affecting Federal lands, or to repair all damages to Federal lands resulting therefrom, the Authorized Officer may take such measures as deemed necessary to control and cleanup the discharge and restore the area, including, where appropriate, the aquatic

environment and fish and wildlife habitats, at the full expense of the holder. Such action by the Authorized Officer shall not relieve the holder of any liability or responsibility.

5. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.

6. The pipeline will be buried with a minimum cover of 36 inches between the top of the pipe and ground level.

7. Blading of all vegetation will not be allowed. Blading is defined as the complete removal of brush and ground vegetation. Clearing of brush species will be allowed. Clearing is defined as the removal of brush while leaving ground vegetation (grasses, weeds, etc.) intact. Clearing is best accomplished by holding the blade 4 to 6 inches above the ground surface. In areas where blading and/or clearing is allowed, the maximum width of these operations will not exceed 50 feet.

8. The holder shall minimize disturbance to existing fences and other improvements on public lands. The holder is required to promptly repair impacted improvements to at least their former state. The holder shall contact the owner of any improvements prior to disturbing them. When necessary to pass through a fence line, the fence will be braced on both sides of the passageway prior to cutting of the fence. No permanent gates will be allowed unless approved by the Authorized Officer.

9. Vegetation, soil, and rocks left as a result of construction, drilling, or maintenance activity will be randomly scattered over the project area and will not be left in rows, piles, or berms, unless otherwise approved by the Authorized Officer. A berm will be left over the ditch line to allow for settling back to grade.

10. In those areas where erosion control structures are required to stabilize soil conditions, the holder shall install such structures as are suitable for the specific soil conditions being encountered and which are in accordance with sound management practices. Any earth work will require prior approval by the Authorized Officer.

11. The holder shall reseed all surface disturbed by construction activities. If reseeding is required, it will be done according the attached seeding requirements (Exhibit B), using seed mixture 2 (for sandy sites).

12. All above-ground structures not subject to safety requirements shall be painted by the holder to blend with the natural color of the landscape. The paint used shall be a color which simulates "Standard Environmental Colors" designated by the Rocky Mountain Five-State Interagency Committee. The color selected for this project is Carlsbad Canyon (formerly sandstone brown), Munsell Soil Color Chart Number 2.5Y 6/2.

13. The holder shall post signs designating the BLM serial number, NM-99504 assigned to this right-of-way grant at the following locations: the points of origin and completion, or entry to and exit from public lands, of the right-of-way and at all major road crossings. These signs will be posted in a permanent, conspicuous manner, and will be maintained in a legible condition for the term of the right-of-way.

14. The holder shall not use the right-of-way as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the holder. The holder shall take whatever steps are necessary to ensure that the right-of-way is not used as a roadway.

15. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on the holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the holder.

16. The period of time that any trenches or other excavations are kept open will be held to the minimum compatible with construction requirements. Open trenches will have ramps, bridges, or earthen plugs, at least six feet wide, every one-quarter mile to pass livestock and wildlife.

17. ROW's, pads, mine sites, and construction areas will be kept free of the following plant species: Malta starthistle, African rue, Scotch thistle, and salt cedar.

18. Special Stipulations:

The BLM, Carlsbad Resource Area, will be informed immediately if any subsurface drainages, channels, or voids are intersected by the trench, and no pipe will be laid in the trench at that point until clearance has been issued by the Authorized Officer. Special restoration stipulations or a realignment may be required at such intersections, if any.

EXHIBIT B
(December 5, 1997)

BLM Serial No.: NM-99504

Company Reference: Angell "6" Fed. #1

Seed Mixture 2, for Sandy Sites

The holder shall seed all disturbed areas with the seed mixture listed below. The seed mixture shall be planted in the amounts specified in pounds of pure live seed (PLS)* per acre. There shall be no primary or secondary noxious weeds in the seed mixture. Seed will be tested and the viability testing of seed will be done in accordance with State law(s) and within nine (9) months prior to purchase. Commercial seed will be either certified or registered seed. The seed container will be tagged in accordance with State law(s) and available for inspection by the authorized officer.

Seed will be planted using a drill equipped with a depth regulator to ensure proper depth of planting where drilling is possible. The seed mixture will be evenly and uniformly planted over the disturbed area (smaller/heavier seeds have a tendency to drop the bottom of the drill and are planted first). The holder shall take appropriate measures to ensure this does not occur. Where drilling is not possible, seed will be broadcast and the area shall be raked or chained to cover the seed. When broadcasting the seed, the pounds per acre are to be doubled. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of at least one full growing season after seeding.

Species to be planted in pounds of pure live seed* per acre:

<u>Species</u>	<u>lb/acre</u>
Sand dropseed (<i>Sporobolus cryptandrus</i>)	1.0
Sand lovegrass (<i>Eragrostis trichodes</i>)	1.0
Plains bristlegass (<i>Setaria macrostachya</i>)	2.0

*Pounds of pure live seed:

Pounds of seed x percent purity x percent germination = pounds pure live seed

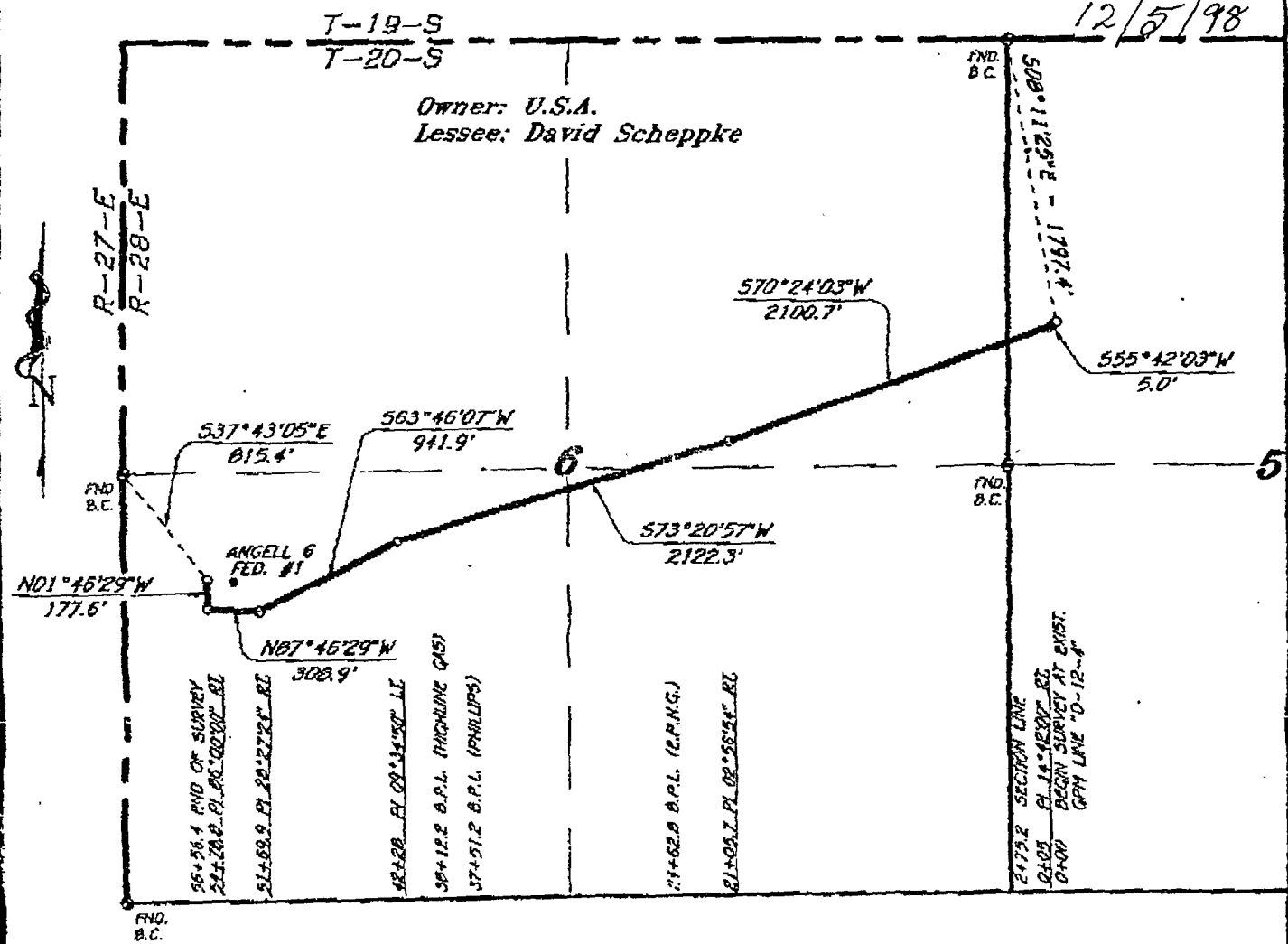
NM-99504

Exhibit C

12/5/98

SECTIONS 5&6, TOWNSHIP 20 SOUTH, RANGE 28 EAST, N.M.P.M.,
EDDY COUNTY, NEW MEXICO.

Owner: U.S.A.
Lessee: David Schepke



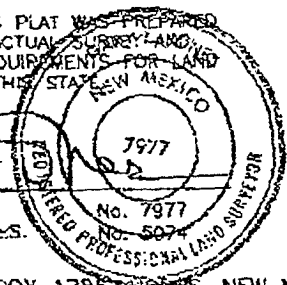
LEGAL DESCRIPTION

A STRIP OF LAND 50.0 FEET WIDE, LOCATED IN SECTIONS 5&6, TOWNSHIP 20 SOUTH, RANGE 28 EAST, N.M.P.M., EDDY COUNTY, NEW MEXICO AND BEING 25.0 FEET LEFT AND RIGHT OF THE ABOVE PLATTED CENTERLINE SURVEY.

SECTION 5 - 275.2 FEET = 0.05 MILES
SECTION 6 - 5,381.2 FEET = 1.02 MILES
TOTAL - 5,656.4 FEET = 1.07 MILES

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY AND MEETS OR EXCEEDS ALL REQUIREMENTS FOR LAND SURVEYS AS SPECIFIED BY THE STATE OF NEW MEXICO.

GARY L. JONES
N.M. P.S.
TEXAS P.L.S.



BASIN SURVEYS P.O. BOX 1786-HOBBBS, NEW MEXICO

1000 0 1000 2000 FEET

PENWELL ENERGY INC.

REF: ANGELL "6" FEDERAL No 1

A PIPELINE CROSSING U.S.A. LAND IN
SECTION 6, TOWNSHIP 20 SOUTH, RANGE 28 EAST,
N.M.P.M., EDDY COUNTY, NEW MEXICO.