

170679

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Issuing Office

Battle Mountain Field Office

Serial Number

N-62541

1. A (right-of-way) (permit) is hereby granted pursuant to:

a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);

c. Other (describe) _____

2. Nature of Interest:

a. By this instrument, the holder **Wild Balance Corporation** receives a right to construct, operate, maintain, and terminate a(n) **access road to private land in Diamond Valley** on public lands (or Federal land for MLA Rights-of-Way) described as follows:

Mount Diablo Meridian, Nevada

**T. 21 N., R. 54 E.,
sec. 3, SW1/4NW1/4, NW1/4SW1/4**

b. The right-of-way or permit area granted herein is **60** feet wide, **71.72** feet long and contains **0.104** acres, more or less. If a site type facility, the facility contains **N/A** acres.

is granted in perpetuity

c. This instrument shall terminate on _____, _____ 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.

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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 2800 and 2880.

b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 120 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.

d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A and B, dated August 17, 1998, 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.

e. 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.

f. 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.

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(Date) 8/21/98
(Title) Agent
(Signature of Holder) Ernest E. Markey

(Effective Date of Grant) August 27, 1998
(Title) Assistant Field Manager
Nonrenewable Resources
Wayne King
WKK King NV063

EXHIBIT ASTIPULATIONS

1. 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.
2. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation, and surfacing).
3. All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices.
4. During construction, operation, maintenance, and termination of the right-of-way, vehicles, gas-powered equipment, and flues shall be equipped with spark arrestors.
5. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support construction equipment.
6. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
7. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods.
8. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
9. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the

incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

10. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. 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 proper mitigation measures will be made by the authorized officer after consulting with the holder.

11. Pursuant 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The holder is responsible for the cost of consultation, evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the authorized officer after consulting with the holder.

12. The holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, the holder(s) 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 under this right-of-way 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 of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result

EXHIBIT A Continued

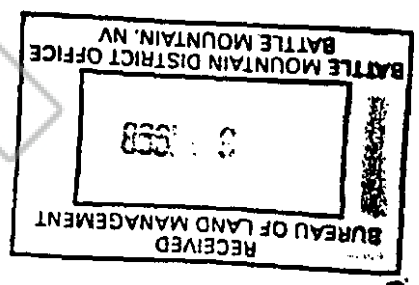
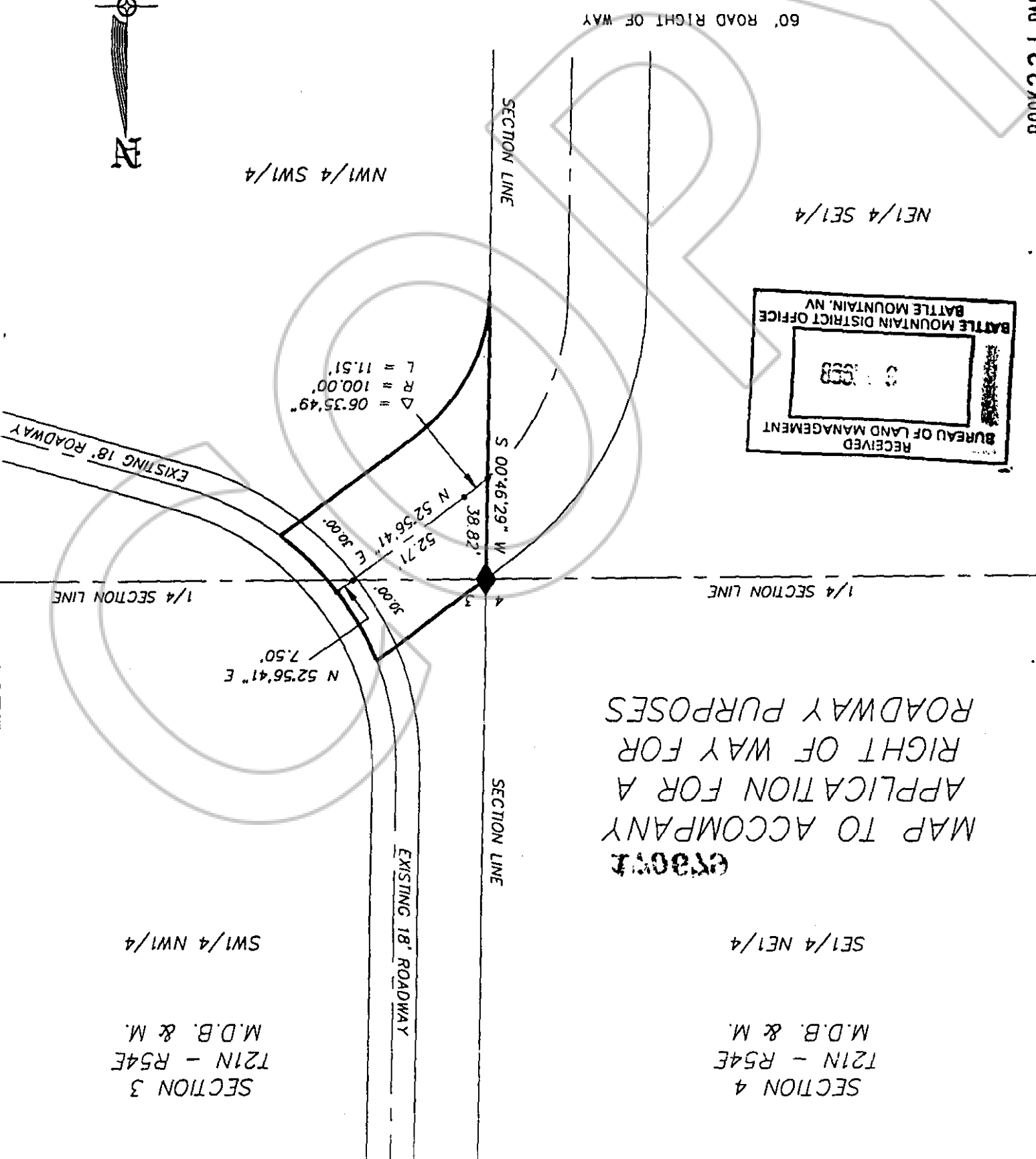
of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency or State government.

13. The holder of N-62541 agrees to indemnify the United States against any liability arising from the release or threatened 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 of 1976, 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 the release is caused by the Holder, its agent, or unrelated third parties.

14. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

Pl of 1
 N-62541
 817198
 Exhibit B

SECTION	SUB-DIVISION	TOWN	SHIP RANGE	LENGTH ALONG CENTERLINE	AREA
3	SW1/4 NW1/4	T21N	R54E	7.50 FT.	0.021 AC.
3	NW1/4 SW1/4	T21N	R54E	64.22 FT.	0.083 AC.
TOTAL =					71.72 FT. 0.104 AC.



MAP TO ACCOMPANY
 APPLICATION FOR A
 RIGHT OF WAY FOR
 ROADWAY PURPOSES

SECTION 3
 T21N - R54E
 M.D.B. & M.

SECTION 4
 T21N - R54E
 M.D.B. & M.

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COPY

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OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
Thom Mount Engineering
98 SEP 21 AM 10:01
EUREKA COUNTY NEVADA
M.N. REBALEATI, RECORDER
FILE NO. FEES 13.00