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**Eureka County - NV**

**Mike Rebaleati - Recorder**

Fee: \$28.00

Page 1 of 15

RPTT:

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Book- 558 Page- 0120



APN: See Table Below  
Recording Requested by and when  
Recorded Return To:

McDonald Carano Wilson LLP  
Attn: Andrew S. Gabriel, Esq.  
2300 West Sahara Avenue, Suite 1200  
Las Vegas, NV 89102

I the undersigned hereby affirm that this  
document submitted for recording does not  
contain any personal information:

Andrew S. Gabriel, Esq.

**RECORDING COVER PAGE  
(Eureka County, NV)**

**EASEMENT BY COURT ORDER  
IN SETTLEMENT OF LANDOWNER ACTION**

APN:	Grantor:
003-505-01	Nevada Bell
003-503-02	Joshua L Drake
003-504-01	Dale & Patricia Tarkalson
003-504-02	Dale Tarkalson
003-523-08	Kit Lorre Benadom
003-525-03	Elko Land & Livestock Co
003-525-04	Elko Land & Livestock Co
003-542-02	Elko Land & Livestock Co
003-544-02	Elko Land & Livestock Co

003-546-02	Elko Land & Livestock Co
004-220-12	Newmont Mining Corp
004-220-01	Elko Land & Livestock Co
004-220-11	Elko Land & Livestock Co
004-220-10	Elko Land & Livestock Co
004-220-06	Newmont USA Ltd
004-390-17	Palisade Ranch Inc
004-390-08	Palisade Ranch Inc
004-390-19	Julian Tomera Ranches Inc
004-370-12	Palisade Quarry LLC
004-370-20	Disarm & Protect Inc
004-380-03	Disarm & Protect Inc
003-502-01	Elko Land & Livestock Co
003-592-01	Disarm & Protect Inc
004-370-21	Disarm & Protect Inc
004-320-02	Elko Land & Livestock Co
004-330-03	Elko Land & Livestock Co
004-300-05	New Navada Lands LLC
004-300-06	Elko Land & Livestock Co
005-140-04	Palisade Ranch Inc
005-140-01	Palisade Ranch Inc

Recording Cover Page No. 2 of 3

005-140-06	N B Ranching LLC
005-140-08	Newmont Mining Corp
005-140-09	Brown Family Revoc Tr
005-120-05	Victoria Morin et al
005-120-12	Elko Land & Livestock Co
005-120-06	Elko Land & Livestock Co
005-120-10	Elko Land & Livestock Co
005-120-20	Elko Land & Livestock Co
005-120-09	Elko Land & Livestock Co
005-080-21	Elko Land & Livestock Co
005-100-01	Elko Land & Livestock Co
003-503-01	Elko Land & Livestock Co
005-080-20	Elko Land & Livestock Co

**GRANTEES:**

Qwest as defined in the "Settlement Agreement" referenced in this Easement Deed. That Settlement Agreement defined "Qwest" to include (1) Qwest Communications International Inc.; (2) Qwest Communications Corporation, now known as Qwest Communications Company, LLC, and (3) all of these entities' predecessors, successors, assigns, parents, affiliates and subsidiaries.

**Address of Grantee:**

Qwest Communications Company, LLC  
700 West Mineral Avenue  
Littleton, CO 80120  
Attn: Jack Shives, ROW Managers

Recording Cover Page No. 3 of 3

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ELIZABETH WEAR, JOHN BUTCHER, and  
CARMEN WORSTELL, on behalf of  
themselves and all others similarly-situated,

CASE NO. 2:11-cv-809-KJD-GWF

Plaintiffs,

v.

SPRINT COMMUNICATIONS COMPANY  
L.P.; QWEST COMMUNICATIONS  
COMPANY, LLC; LEVEL 3  
COMMUNICATIONS, LLC; and WITEL  
COMMUNICATIONS, LLC,

<input type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
JUN 18 2013	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

Defendants.

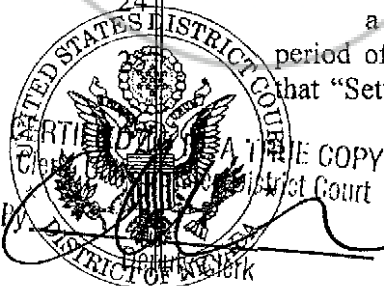
**EASEMENT DEED BY COURT ORDER  
IN SETTLEMENT OF LANDOWNER ACTION**

WHEREAS, the parties to the above-captioned class action (the "Action") entered into a Nevada Class Settlement Agreement, as of September 6, 2012 and agreed to an Amendment to the Nevada Class Settlement Agreement on May 10, 2013, (collectively the "Settlement Agreement") (terms capitalized herein and not otherwise defined shall have the meanings ascribed to them in the Settlement Agreement); and

WHEREAS, on June 18, 2013, the Court entered a final Order and Judgment approving the Settlement Agreement and ordering that this Action may be settled as a class action on behalf of the following class:

A class (the "Settlement Class") defined as:

a class comprising all Persons who own or who claim to own, for any period of time during a Compensation Period, any Covered Property, *provided*, that "Settlement Class" or "Class" does not include: (1) Right-of-Way Providers



1 and their predecessors, successors, parents, subsidiaries, and affiliates, past or  
2 present; (2) federal, state, and local governmental entities; (3) Native American  
3 nations and tribes; or (4) any Person who files a valid and timely exclusion on or  
4 before the Opt-Out Deadline.

Members of this Class are referred to below as Class Members;

5 WHEREAS, the Settlement Agreement provides for the entry of an Easement Deed by  
6 Court Order in Settlement of Landowner Action by which the Settling Defendants acquire, to the  
7 extent that Class Members have the right to transfer it, a permanent telecommunications  
8 easement in the Right of Way adjacent to the property of each Class Member;

9 THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED THAT:

10 1. To the extent that each Class Member owns rights in the Easement Premises (as  
11 hereafter defined), the Class Member (the "Grantor") hereby grants to whichever of Sprint  
12 Communications Company L.P., Qwest Communications Company, LLC, Level 3  
13 Communications, LLC, and WiTel Communications, LLC has Designated for inclusion under  
14 the Settlement Agreement the Right of Way which adjoins, underlies or includes Covered  
15 Property owned by the Class Member, together with its successors, assigns, and licensees (the  
16 "Grantee"), a permanent telecommunications easement in the Easement Premises. For each  
17 county in which this Easement Deed by Court Order in Settlement of Landowner Action is being  
18 recorded, a list of affected Class Members and their affected parcels is attached as Exhibit 1.  
19 Exhibit 1 shall describe Class Members' affected parcels with the following information, to the  
20 extent that it is in the Database of Identification Information: owner name; owner mailing  
21 address; tax map identification number; tax parcel identification number; lot number; and  
22 section, township, and range. Exhibit 1 may describe Class Members' affected parcels with any  
23 other available information.  
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1           2.     The terms and conditions of the permanent telecommunications easement that is  
2 the subject of this Easement Deed by Court Order in Settlement of Landowner Action are:

3           a perpetual easement and right of way (hereinafter, together with the rights and privileges  
4 herein granted, the "Easement") and right to place, lay, bury, construct, install, operate, repair,  
5 maintain (including aerial patrol), renew, rebuild, replace, upgrade, expand, relocate, and remove  
6 fiber optic cables, copper cables, coaxial cables or other cables through which voice, data, video  
7 or other signals are transmitted, conduits, inner ducts, hand holes, splice vaults, poles, optical or  
8 electronic equipment, regenerator huts, marker posts or signs, and other related facilities  
9 appropriate for installation, use, or maintenance of such cables (collectively, the  
10 "Telecommunications Cable System"), in, on, over, under, through and/or across the Easement  
11 Premises. The Easement Premises means all that real property that (a) either (i) is included  
12 within a parcel of property that is described in Exhibit 1 or (ii) has a common boundary with a  
13 parcel of property described in Exhibit 1 (the "Grantor's Property") (for purposes of this  
14 Telecommunications Cable System Easement Deed, a parcel of property shall be deemed to have  
15 a common boundary with the Easement Premises if it is separated by a non-navigable river or a  
16 street, road, or highway, other than a numbered state or federal highway) and that (b) (i) is or  
17 was used as a railroad right of way ("Railroad Right of Way") and (ii) is on a side of the  
18 centerline of the Railroad Right of Way that is next to the Grantor's Property (the "Grantor  
19 Side"), and (iii) extends no more than ten (10) feet on each side of the Grantee's  
20 Telecommunications Cable System (A) as it existed on October 9, 2012 (B) where the actively  
21 used components of the Grantee's Telecommunications Cable System are moved or placed,  
22 provided, however, that only a single 20-foot easement per moved component may exist at any  
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1 point in time in the Easement Premises, and the width of the moved component's Easement  
2 Premises shall be reduced on one side and increased by an equal linear footage on the other side  
3 wherever necessary in order that it shall in all places remain solely within the limits of a single  
4 Grantor Side of the Railroad Right of Way, and (C) where new components are installed to  
5 connect the existing Telecommunications Cable System to the edge of the Right of Way. The  
6 Easement shall be construed to grant Grantee all rights necessary to abandon in place unused  
7 components of Grantee's Telecommunications Cable System.  
8

9 The Easement shall not include the right to construct on the Easement Premises  
10 regenerator huts and similar structures ("Buildings") in addition to those existing on October 9,  
11 2012. The Easement shall include the rights to repair, replace, and expand existing Buildings,  
12 provided, however, that no such repair, replacement, or expansion shall increase the site that the  
13 Buildings occupy, or the height of any Building, by more than twenty-five percent. The  
14 Easement does not permit the construction of microwave towers, cell towers, or other  
15 components of a primarily aboveground statewide Telecommunications Cable System.  
16

17 The Easement includes the right to temporarily use the entire Grantor Side of the  
18 Railroad Right of Way for construction or maintenance, so long as Grantee uses its best efforts  
19 not to interfere with any real property which, although within the boundaries of the Easement  
20 Premises, is actually being used by Grantor; provided, however, that in no event shall Grantee be  
21 prohibited from using such real property if it is commercially reasonable to do so under the  
22 circumstances or if Grantee's Telecommunications Cable System is currently located within such  
23 area. The Easement shall include the right of reasonable ingress and egress to and from the  
24 Easement Premises over that portion of the Grantor's real property that underlies the Railroad  
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1 Right of Way and, for repair and maintenance, over any existing private roads of Grantor, where  
2 access from public or railroad roads is not reasonably practical, provided Grantee has made  
3 commercially reasonable efforts to give prior notice to Grantor of Grantee's use of Grantor's  
4 private roads. Grantee shall not be liable for damages caused by its removal of trees,  
5 undergrowth, and brush within the Easement Premises necessary or appropriate for the  
6 enjoyment of the Easement. Nothing contained herein shall constitute a waiver of any right that  
7 Grantor may have for any damages to Grantor's property outside of the Easement Premises  
8 caused by Grantee's action. If Grantee's action causes damage to any of Grantor's existing  
9 improvements, including houses, garages, shops, sheds, and fences, or growing crops, which are  
10 within the Easement Premises, Grantee shall pay reasonable compensation to the Grantor for  
11 such damage to the extent provided by law.  
12

13 From and after June 18, 2013, subject to all the restrictions and limitations stated herein,  
14 the Easement includes the right to construct and install additional components of a  
15 Telecommunications Cable System within the Easement Premises. Grantee agrees that, unless  
16 (a) it is required to do so by the railroad or other owner of Railroad Right of Way or (b) it is  
17 commercially reasonable under the circumstances to do so, it will not install additional  
18 components of a Telecommunications Cable System in the area of the Easement Premises that is  
19 outside a parallel fence constructed by the railroad or other owner of Railroad Right of Way or is  
20 actually being used by the Grantor or its successor, provided, however, that the foregoing shall  
21 not be binding upon Grantee if Grantee's Telecommunications Cable System is currently located  
22 within such area. If Grantee's action causes damage to any of Grantor's existing improvements,  
23 including houses, garages, shops, sheds, and fences, or growing crops, which are within the  
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1 Easement Premises, Grantee shall pay reasonable compensation to the Grantor for such damage  
2 to the extent provided by law.

3 The Easement includes all rights necessary to the lawful occupation of the Easement  
4 Premises by an existing Telecommunications Cable System, and by any additional  
5 Telecommunications Cable System that is constructed and installed by or on behalf of Grantee in  
6 the Easement Premises and that is owned or operated by either (a) Grantee or (b) any person or  
7 entity to which Grantee sold, granted, leased, or otherwise transferred or may hereafter sell,  
8 grant, lease, assign, or otherwise transfer, all or any part of the rights in or use of such  
9 Telecommunications Cable System.  
10

11 The Easement, however, does not apply to any Telecommunications Cable System that  
12 existed on October 9, 2012, but that was acquired by Grantee after that date (unless such  
13 Telecommunications Cable System or component thereof was acquired from any of Sprint  
14 Communications Company L.P.; Qwest Communications Company, LLC, f/k/a Qwest  
15 Communications Corporation; Level 3 Communications, LLC, Level 3 Communications, Inc.,  
16 and Level 3 Telecom Holdings, Inc.; WilTel Communications, Inc.; WilTel Communications,  
17 LLC; and Williams Communications, LLC, f/k/a Williams Communications, Inc., f/k/a Vvvx,  
18 Inc.).  
19

20 No oil, gas, or other mineral rights are granted and no existing oil, gas, or other mineral  
21 rights are expanded, limited, or affected by this instrument, provided, however, that Grantor shall  
22 not use a method of extraction that interferes with or impairs in any way the Easement, the  
23 Telecommunications Cable System, or the exercise of Grantee's rights herein.  
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Grantor shall not, nor shall Grantor authorize others to, construct or create any road, reservoir, excavation, obstruction, structure, or building or change the land grade on, in, over, under, through, or across the Easement Premises without the prior written consent of Grantee, provided that nothing herein shall be construed to affect the rights and obligations of any railroad with respect to the use, improvement, or alteration of its Railroad Right of Way, as provided in any agreement between the railroad and the Grantee, by applicable law, or otherwise.

It is understood and agreed that the Easement is not exclusive and is subject to all pre-existing uses and pre-existing rights to use the Easement Premises, whether such uses are by Grantor or others and whether for surface uses, crossings, or encroachments by communication companies or utilities. It is further understood and agreed that Grantor retains all of its existing rights, if any, to grant, convey, assign, and restrict any and all rights (including future rights and uses) on the Easement Premises, provided, however, and notwithstanding the foregoing, that Grantor shall not use or authorize others to use the Easement Premises in a manner that interferes with or impairs in any way Grantee's Telecommunications Cable System or the exercise by Grantee of the rights granted herein.

Subject to the terms hereof, Grantee shall have all other rights and benefits necessary or useful to the full and complete enjoyment and use of the Easement for the purposes stated herein, including the right to sell, grant, lease, or otherwise transfer all or any part of the rights in or use of the Telecommunications Cable System.

Grantor conveys the Easement without warranty of title to any property interest in the Easement Premises. This instrument does not address and shall not affect any real property rights, including the priority of interests, between Grantor and any railroad or between Grantee

1 and any railroad, or any of their predecessors, successors, past or present predecessors in interest,  
2 successors in interest, successors in title, members, partners, parents, subsidiaries, affiliates,  
3 lessees, assigns, and past, current, or future licensees or assignees. This Easement is not  
4 intended to impact or diminish any railroad's existing rights or property interests in the Right of  
5 Way. This Easement shall not be construed to permit Grantee to interfere with railroad  
6 operations. This Easement also shall not permit any component of a Telecommunications Cable  
7 System to remain in a Railroad Right of Way except (a) under existing or future agreements with  
8 the railroad or (b) in any Railroad Right of Way in which no railroad operates and no railroad  
9 retains any right, title, or interest. This Easement also shall not permit any new components to  
10 be installed to connect the existing Telecommunications Cable System to the edge of the Right  
11 of Way in any Railroad Right of Way as to which the Interstate Commerce Commission or the  
12 Surface Transportation Board has entered an order, pursuant to 49 U.S.C. § 10903, that the  
13 railroad is authorized to cease to provide or maintain rail service over that right of way and the  
14 railroad no longer provides or maintains rail service over that line, provided that if the railroad  
15 does not cease such rail service or later reactivates such service, then this limitation shall not  
16 apply.  
17  
18

19 This Telecommunications Cable System Easement Deed is executed and delivered on  
20 behalf of Grantor for the purpose of granting the Easement to Grantee in, on, over, under,  
21 through and/or across the Easement Premises to the full extent of Grantor's right, title or interest,  
22 if any, in or to the Easement Premises, and the Easement granted hereby shall affect the  
23 Easement Premises only to the extent of Grantor's right, title, and interest therein. Grantor and  
24 Grantee agree that this Telecommunications Cable System Easement Deed shall not grant any  
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1 rights to the Easement Premises, or any portion thereof, in which Grantor holds no right, title or  
2 interest.

3 No rights reserved to Grantor herein shall be deemed to expand rights reserved to Grantor  
4 under any other easement, right of way, license, lease, or any similar instrument or court order.  
5 No limitation herein on the rights of Grantee shall be deemed to limit rights heretofore granted  
6 by Grantor or its predecessors in interest under any other easement, right of way, license, lease,  
7 or any similar instrument or court order.  
8


9 The terms and provisions of this instrument shall constitute covenants running with the  
10 land and shall be binding upon and inure to the benefit of the Settling Defendants, the Grantor,  
11 their successors, assigns, personal representatives, and heirs.

12 This instrument fully sets forth the terms and conditions of the Easement. There are no  
13 oral or other written agreements between Grantor and Grantee that modify, alter, or amend this  
14 instrument.  
15

16 TO HAVE AND TO HOLD the Easement, rights and privileges unto Grantee, its  
17 successors and assigns in perpetuity or until such time as Grantee shall cause the Easement to be  
18 released of record.

19 3. Settling Defendants may record this Easement under the terms and conditions set  
20 forth in the Settlement Agreement.

21 Date: June 18, 2013

22   
23 \_\_\_\_\_  
24 Honorable Kent J. Dawson  
25 United States District Judge  
26

# Eureka

**Grantee's Name:** Qwest, as defined in the "Settlement Agreement" referenced in this easement. That Settlement Agreement defines "Qwest" to include (1) Qwest Communications International Inc., (2) Qwest Communications Corporation, now known as Qwest Communications Company, LLC, and (3) all of these entities' predecessors, successors, assigns, parents, affiliates and subsidiaries.

**Address for Grantee:** Qwest Communications Company, LLC, 700 West Mineral Avenue, Littleton, CO 80120, Attn: Jack Shives, ROW Manager

**Tax Address for Grantee:** Same as above

## EXHIBIT 1

**THE REAL PROPERTIES WHICH ARE SUBJECT TO THE FOREGOING EASEMENT DEED BY COURT ORDER IN SETTLEMENT OF LANDOWNER ACTION AND THE OWNERS THEREOF INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING NAMED PARTIES AND PARCELS IN EUREKA COUNTY, NEVADA**

APN	Grantor	County
003-505-01	Nevada Bell	Eureka
003-503-02	Joshua L Drake	Eureka
003-504-01	Dale & Patricia Tarkalson	Eureka
003-504-02	Dale Tarkalson	Eureka
003-523-08	Kit Lorre Benadom	Eureka
003-525-03	Elko Land & Livestock Co	Eureka
003-525-04	Elko Land & Livestock Co	Eureka
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004-220-10	Elko Land & Livestock Co	Eureka
004-220-06	Newmont USA Ltd	Eureka
004-390-17	Palisade Ranch Inc	Eureka
004-390-08	Palisade Ranch Inc	Eureka



## Eureka

APN	Grantor	County
004-390-19	Julian Tomera Ranches Inc	Eureka
004-370-12	Palisade Quarry LLC	Eureka
004-370-20	Disarm & Protect Inc	Eureka
004-380-03	Disarm & Protect Inc	Eureka
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005-120-20	Elko Land & Livestock Co	Eureka
005-120-09	Elko Land & Livestock Co	Eureka
005-080-21	Elko Land & Livestock Co	Eureka
005-100-01	Elko Land & Livestock Co	Eureka



0225354

Book: 558

12/02/2013

Page: 133

Page: 14 of 15

# Eureka

APN	Grantor	County
003-503-01	Elko Land & Livestock Co	Eureka
005-080-20	Elko Land & Livestock Co	Eureka

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0225354

Book: 558  
Page: 134

12/02/2013  
Page: 15 of 15