Alliance Pipeline Inc.
99 Nevada Ave Ste 101
Mankato MN
56001

DELAWARE COUNTY IOWA
FILED
1999 SEP 14 PM 4:00
BOOK 1999 PAGE 3350
RECORDER
DELAWARE COUNTY IOWA
$40.00

Prepared by Kenneth M. Goulart, Iowa Land Manager, 3343 Southgate Ct. SW, Ste 201, Cedar Rapids, IA 52404 (319) 362-0699
name address telephone

Tract No. IA-DE-0401

**ALLIANCE PIPELINE L.P.**

**EASEMENT AND RIGHT-OF-WAY AGREEMENT**

For and in consideration of the sum of Ten Dollars ($10.00), in hand paid, the mutual promises of the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Thomas P. McDonald and Nancy McDonald (Husband and Wife), whose mailing address 3117 200th Ave. Hopkinton, IA 52057 (hereinafter called "Grantor") does hereby grant, sell, convey and warrant unto Alliance Pipeline L.P., a Delaware limited partnership, having its principal place of business at 400, 605 - 5 Avenue SW, Calgary, Alberta, Canada, T2P 3H5, its successors and assigns (hereinafter called the "Grantee"), an exclusive right-of-way and perpetual easement for the purposes of surveying, laying, constructing, inspecting, maintaining, operating, repairing, replacing, altering, reconstructing, removing and abandoning in place a pipeline, together with all fittings, cathodic protection equipment, pipeline markers, and all other equipment and appurtenances thereto, for the transportation of natural gas, and associated liquids or substances, along routes convenient for Grantee's operations on, over, under, across and/or through a strip of land 60 feet in width, as described under the heading "Permanent Easement and Right-of-Way" in Exhibit A, which is attached hereto and made a part hereof. In addition, during the original construction of the pipeline, the easement and right-of-way granted hereunder shall also include the area described under the headings "Temporary Work Space" and "Additional Temporary Work Space" in Exhibit A hereto. Grantee may temporarily use additional temporary workspace adjacent to the area described in Exhibit A hereto to the extent necessary during construction of Grantee's pipeline.

The aforesaid rights, privileges, easement and right-of-way are herein granted subject to the following terms, stipulations and conditions which are hereby mutually covenanted and agreed to by the Grantor. By acceptance of any of the benefits hereunder, the Grantee shall be deemed to have agreed to be bound by the covenants applicable to Grantee hereunder.

1. Unless specifically waived by Grantor, in writing, Grantee shall comply with all terms, requirements, and obligations contained in the Agricultural Impact Mitigation Agreement ("Mitigation Agreement") entered into between Grantee, the Iowa Attorney General's Office, the Iowa Department of Agriculture and Land Stewardship and the Office of Consumer Advocate, on September 2, 1997 and September 3, 1997, including for all future construction, maintenance and

repairs, unless otherwise expressly provided in this Agreement or in any release of damage claims executed by the Grantor.

**2.** Provided its use does not in any manner interfere with or prevent the exercise by Grantee of its rights hereunder, or create any actual or potential hazard to the pipeline or its appurtenances, the undersigned Grantor, his successors, heirs or assigns, reserve all oil, gas and minerals on and under said lands and the right to farm, graze and otherwise fully use and enjoy said lands; provided, however, that the Grantee shall have the right hereafter to cut, keep clear and remove all trees, brush, shrubbery, structures and other obstructions or facilities in the easement being conveyed which are deemed by Grantee to injure, endanger or interfere in any manner with the proper and efficient construction, use, inspection or maintenance of said pipeline, or fittings, cathodic protection equipment and other appurtenances thereto; and, provided, further, that Grantor shall not excavate or otherwise alter the ground elevation, construct any dam or otherwise create a water impoundment within or over the easement without prior authorization of the Grantee. The Grantee shall have all privileges necessary or convenient for the full use of the rights herein granted, together with reasonable ingress and egress along the said pipeline. Access to the pipeline right-of-way shall be, to the extent feasible, from adjacent segments of the pipeline right-of-way, or from public highway, or railroad right-of-way. Grantee shall have the right to remove all fences from the easement as required for purposes of construction of Grantee's pipeline and Grantee shall repair all such fences to their original state or better promptly upon completion of construction of Grantor's property. Following the commencement of construction of the pipeline, Grantee shall continue to own the pipeline and all other equipment and facilities it installs or constructs within the easement and right-of-way. However, no stations, block valves, or similar above-ground structures or items will be placed by Grantee, either as a result of the initial pipeline construction or at a later date, without Grantor's permission.

**3.** Recording and Identifying the Easement. Grantee shall place and maintain for the duration of construction temporary markers identifying the boundaries of the temporary work space. Grantee shall promptly record this Agreement in the County Recorder's Office and shall pay the Grantors the sum of $40.00 for placing said easement on the Grantor's abstract in addition to the other consideration provided under this Agreement.

**4.** Special Construction Provisions.

a. If Grantee uses the private lane or the drainage ditch crossing during construction, Alliance shall restore the same to the previous use and equivalent condition as existed prior to construction. Alliance shall also provide suitable temporary access during construction if deemed necessary by Grantor.

b. Unless agreed to by Grantor in writing, Grantee shall not leave or store any supplies, materials, or machinery on Grantor's property after Grantee's original construction of the pipeline.

c. In the event that Grantee uses additional temporary work space during construction of Grantee's pipeline not included in the property plat attached hereto,

then Grantee shall pay to Grantor for the easement and advanced damages on such additional temporary easement on the same basis (dollars per acre of total permanent and temporary easement) as such compensation for the area described in the attached property plat.

**5.** The Grantee, by the acceptance hereof, agrees to pay for damages to crops, pasture, fences, drainage title, structures and timber which may arise from the maintaining, repairing, or replacing of the said pipeline, or from the laying of additional pipe in the future. In the event of any leak, explosion, pipeline malfunction, or spill, whether by the pipeline or during construction or maintenance, Grantee shall restore or replace all contaminated soil to its original condition and pay all damages caused by such condition.

6. a. In the event Grantee elects to exercise its right, granted herein, to abandon its pipeline in place, Grantee shall not be liable for any damages arising out of such abandonment in place.

b. In the event Grantee, at any time, elects to abandon its pipeline by removal, it shall seek and obtain all approvals required by federal, state, and local law, and the then-applicable FERC regulations. Upon such removal, Grantee shall cancel and terminate the Agreement and quitclaim any interest in the property to Grantor; provided that Grantee shall retain its rights hereunder to the extent necessary to comply with any conditions imposed by the FERC with respect to Grantee's abandonment of the pipeline by removal. Any damages incurred by Grantor as a result of Grantee's abandonment by removal of the pipeline shall be paid by the Grantee.

**7.** Any payment hereunder may be made or mailed to the Grantor at the address shown above or to

_____

_____

_____

who is hereby appointed agent and authorized to receive and receipt for same, and who is also appointed the true and lawful attorney in fact for the undersigned. The agency and power of attorney granted by Grantor to its agent hereunder shall not be deemed revoked until written notice from Grantor has been received by Grantee.

Any notice to Alliance under this Agreement may be made to the following address in the State of Iowa:

Alliance Pipeline L.P.
3343 Southgate Ct. S.W.
Suite 201
Cedar Rapids, IA 52402

These addresses for notices and Grantor's agent for payment may be changed only by written notice to the other given at the addresses set forth above.

**8.** Except as provided above with respect to limitations on damages, Grantee shall indemnify and hold Grantor harmless from any loss, bodily injury, damages, claims, suits, or actions, together with reasonable attorneys fees and costs, resulting from or arising out of the construction, maintenance use, or existence of said pipeline right-of-way, unless such loss, injury, damage, claim, suit or action results from the gross negligence, intentional acts or willful misconduct or omission of the Grantor. Grantor shall indemnify Grantee from any loss, injury, damages, claims, suits or actions if such loss, injury, damage, claim, suit or action results from the negligence, intentional acts or willful misconduct or omission of the Grantor.

**9.** The undersigned parties (Grantor and Grantee) hereby bind themselves, their heirs, executors, administrators, successors and assigns, to warrant and forever defend this easement and right-of-way unto the other party, its successors and assigns, against every person claiming or to claim the same, or any part thereof. The easement and right-of-way granted hereby shall create a covenant and burden upon Grantor's land running therewith.

**10.** The Grantor agrees to execute and deliver to Grantee, without additional compensation, any additional documents needed to correct the legal description of the easement area to conform to the easement and right-of-way actually and lawfully occupied by the pipeline. Said document, if required, will be prepared by Grantee at its expense.

**11.** The rights and duties granted hereby may be assigned by Grantee and are binding on Grantee's successors and assigns.

**12.** This Agreement shall be governed by the law of the State of Iowa.

**13.** This Agreement may be executed in counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument. Grantor's spouse, if not a titleholder, executes this Easement and Right-of-Way for the purpose of relinquishing all spousal rights including dower, homestead and distributive share. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 26 day of August, 1999.

GRANTOR:

Thomas P. McDonald

Thomas P. McDonald (Husband)

Nancy McDonald

Nancy McDonald (Wife)

GRANTEE:

ALLIANCE PIPELINE L. P.

NKV:F:\DOCS\PUBLIC\AC\951\AGR_CON\23029.doc

**ADDENDUM TO**
**ALLIANCE PIPELINE L.P.**
**EASEMENT AND RIGHT-OF-WAY AGREEMENT**

Notwithstanding any other terms of the Easement and Right-of-Way Agreement to the contrary, the Grantor and the Grantee agree as follows:

1. **Ingress and Egress**. The parties agree that during construction, Grantee's right of ingress and egress to the permanent easement and Right-of-Way and workspace is limited to that access available from adjoining property directly onto the easement and workspace.

2. **Tile Repair**. The parties agree that the compensation paid by Grantee to Grantor for tiling does not include pre-existing main tile crossings of the pipeline. The parties agree that Grantee will make permanent repairs to the pre-existing main tile crossings of the pipeline in a manner consistent with Section 3 of the Agricultural Impact Mitigation Agreement ("AIMA").

3. **Agricultural Impact Mitigation Agreement**. Unless otherwise expressly provided in the Easement and Right-of-Way Agreement including this Addendum, or in a written Release of Damage Claims, Grantee shall comply with the Agricultural Impact Mitigation Agreement ("AIMA") entered into by Alliance Pipeline L.P. and dated September 2 and 3, 1997. Except for those items specifically listed in the attached "Release of Damage Claims" and for which the protections of the AIMA is hereby expressly waived, and for which advanced damages are being paid at the time of this Agreement, nothing in this Agreement may be construed to provide less protection to Grantor than that afforded by the AIMA. Grantor hereby expressly waives the Grantee's obligations under the AIMA for the items listed in the Release.

IN WITNESS WHEREOF, this Addendum has been executed on the 26th day of August, 1999.

GRANTOR:

Thomas P. McDonald (Husband)

Nancy McDonald (Wife)

ALLIANCE PIPELINE L.P.

By: _____

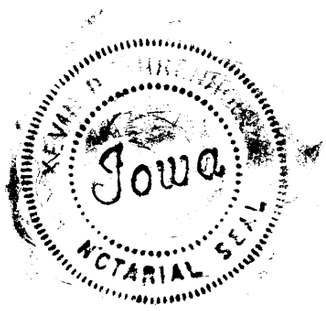
**ACKNOWLEDGMENTS**

**INDIVIDUAL:**

STATE OF IOWA )
Black Hawk )
~~DELAWARE~~ COUNTY )

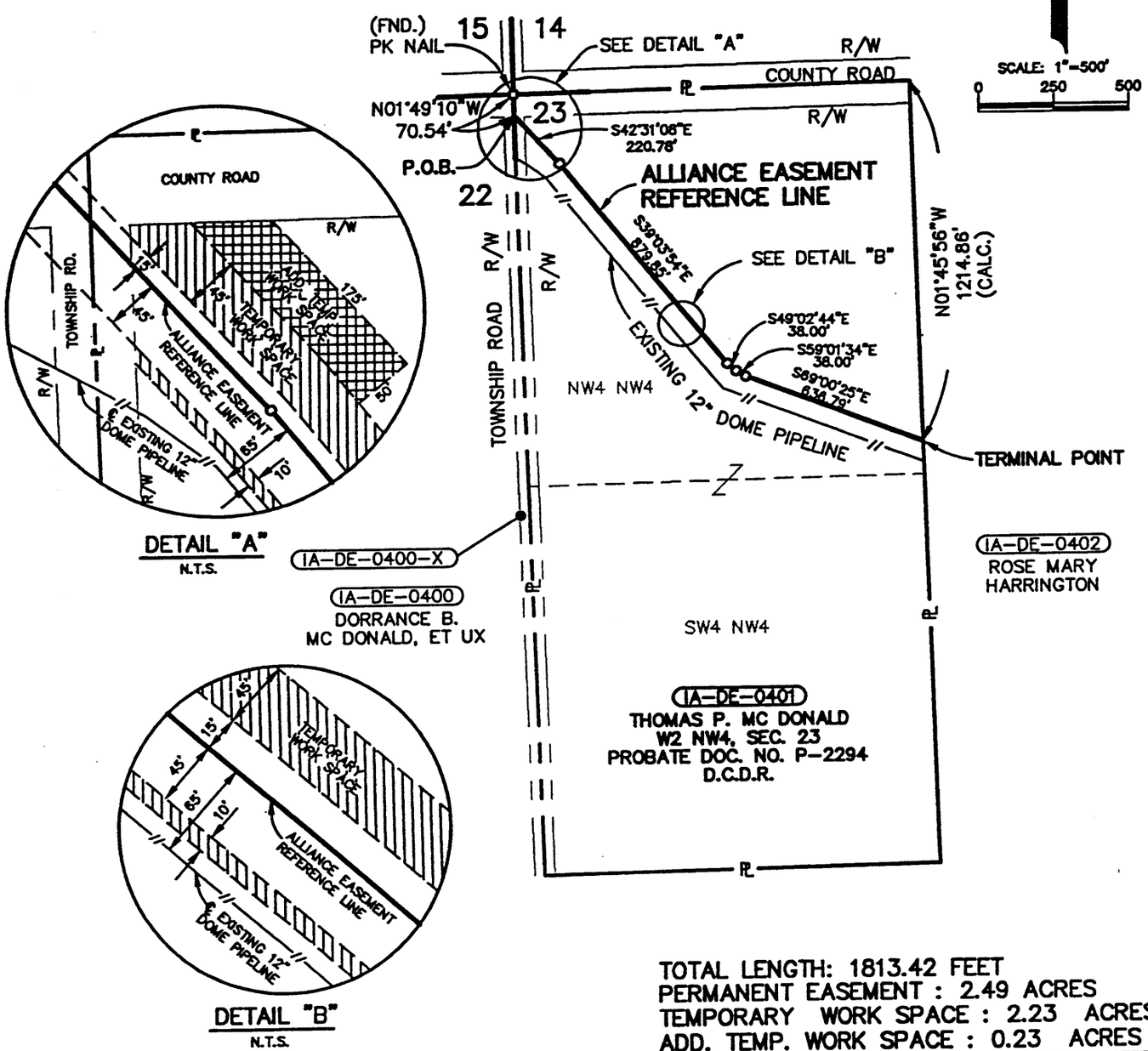
This instrument was acknowledged before me on 26th August, 1999 by Thomas P. McDonald and Nancy McDonald.

Kevin D. Ahrenholz, Notary Public



# DELAWARE COUNTY, IOWA

## T-87-N, R-5-W, SECTION 23




TOTAL LENGTH: 1813.42 FEET
PERMANENT EASEMENT : 2.49 ACRES
TEMPORARY WORK SPACE : 2.23 ACRES
ADD. TEMP. WORK SPACE : 0.23 ACRES

| NO. | DATE | REVISION | BY | CKD. | APR. |
|---|---|---|---|---|---|
| 2 | 12/2/99 | SURVEY 4 | UEI | UEI | LAG |

ALLIANCE pipeline

LINE LIST NO.: IA-DE-0401

THOMAS P. MC DONALD
PROPERTY PLAT

DELAWARE COUNTY, IOWA

| | | |
|---|---|---|
| DRAWN BY: JSR | DATE: 3/24/99 | APPROVED BY: LAG |
| CHECKED BY: WCV | DATE: 3/24/99 | DATE: 3/24/99 |
| SCALE: 1" = 500' | DWG NO.: APL-2604A-8401P | |

EXHIBIT "A"
PAGE 1 OF 2

FILE INFO: I:\2604.000\APLATS\DELAWARE\la8401p.dwg 1=500 03/25/1999 14:28 JSR

# REFERENCE LINE DESCRIPTION

BEING A SIXTY (60) FOOT WIDE PERMANENT EASEMENT AND RIGHT OF WAY OVER, UNDER AND ACROSS THAT CERTAIN PARCEL OF LAND DESCRIBED AS THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 23, BEING MORE SPECIFICALLY DESCRIBED AS THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, TOWNSHIP 87 NORTH, RANGE 5 WEST, DELAWARE COUNTY, IOWA, SAID PROPERTY BEING DESCRIBED IN A DEED RECORDED IN PROBATE DOCUMENT NO. P-2294 OF THE DEED RECORDS OF DELAWARE COUNTY, IOWA. SAID PERMANENT EASEMENT AND RIGHT OF WAY BEING FIFTEEN (15) FEET NORTHEASTERLY AND FORTY FIVE (45) FEET SOUTHWESTERLY OF THE FOLLOWING DESCRIBED REFERENCE LINE:

BEGINNING AT A POINT ON THE WEST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, FROM WHICH A PK NAIL FOUND MARKING THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTH-WEST QUARTER OF SECTION 23, SAID NORTHWEST CORNER ALSO BEING A COMMON CORNER TO SECTIONS 14, 15, 22 AND 23, BEARS NORTH 01°49'10" WEST, A DISTANCE OF 70.54 FEET;

THENCE SOUTH 42°31'08" EAST, A DISTANCE OF 220.78 FEET TO A POINT, BEING APPROXIMATELY SIXTY FIVE (65) FEET NORTHEASTERLY OF AND PARALLEL WITH AN EXISTING 12" DOME PIPELINE THE FOLLOWING COURSES AND DISTANCES;

THENCE SOUTH 39°03'54" EAST, A DISTANCE OF 879.85 FEET TO A POINT;

THENCE SOUTH 49°02'44" EAST, A DISTANCE OF 38.00 FEET TO A POINT;

THENCE SOUTH 59°01'34" EAST, A DISTANCE OF 38.00 FEET TO A POINT;

THENCE SOUTH 69°00'25" EAST, A DISTANCE OF 636.79 FEET TO THE TERMINAL POINT ON THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, FROM WHICH THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, BEARS NORTH 01°45'56" WEST, A DISTANCE OF 1214.86 FEET, EXTENDING OR SHORTENING AT THE SIDELINES OF SAID PERMANENT EASEMENT AND RIGHT OF WAY TO INTERSECT WITH AND TERMINATE AT SAID WEST AND EAST LINES OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23. SAID REFERENCE LINE BEING A TOTAL DISTANCE OF 1813.42 FEET AND SAID PERMANENT EASEMENT CONTAINING 2.49 ACRES OF LAND.

# TEMPORARY WORK SPACE DESCRIPTION

BEING TWO (2) TEMPORARY WORK SPACE EASEMENTS, THE FIRST BEING A FORTY FIVE (45) FOOT WIDE STRIP OF LAND, PARALLEL WITH AND ADJACENT TO THE NORTHEASTERLY LINE OF THE ABOVE DESCRIBED SIXTY (60) FOOT WIDE PERMANENT EASEMENT AND RIGHT OF WAY. THE SECOND BEING A TEN (10) FOOT WIDE STRIP OF LAND, PARALLEL WITH AND ADJACENT TO THE SOUTHWESTERLY LINE OF THE ABOVE DESCRIBED SIXTY (60) FOOT WIDE PERMANENT EASEMENT AND RIGHT OF WAY. THE FIRST EASEMENT EXTENDING OR SHORTENING AT THE SIDELINES TO INTERSECT WITH AND TERMINATE AT THE EAST RIGHT OF WAY LINE OF A TOWNSHIP ROAD, THE SOUTH RIGHT OF WAY LINE OF A COUNTY ROAD, AS DEPICTED IN DETAIL "A" AND SAID EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23. THE SECOND EASEMENT EXTENDING OR SHORTENING AT THE SIDELINES TO INTERSECT WITH AND TERMINATE AT SAID EAST RIGHT OF WAY LINE OF SAID TOWNSHIP ROAD, AS DEPICTED IN DETAIL "A" AND SAID EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23. THE FIRST AND SECOND TEMPORARY WORK SPACE EASEMENTS CONTAINING 2.23 ACRES OF LAND.

# ADDITIONAL TEMPORARY WORK SPACE DESCRIPTION

BEING A FIFTY (50) FOOT WIDE BY ONE HUNDRED SEVENTY FIVE (175) FEET IN LENGTH (ONE HUNDRED SEVENTY FIVE (175) FEET SHALL BE THE SHORTEST SIDE IN LENGTH) STRIP OF LAND, CONTIGUOUS TO SAID SOUTH RIGHT OF WAY LINE OF SAID COUNTY ROAD, AS DEPICTED IN DETAIL "A", CONTIGUOUS TO AND PARALLEL WITH THE NORTHEASTERLY LINE OF THE ABOVE DESCRIBED FORTY FIVE (45) FOOT WIDE TEMPORARY WORK SPACE EASEMENT, CONTAINING 0.23 ACRE OF LAND.

NOTE: BEARINGS ARE BASED ON UTM ZONE 15, AND DERIVED FROM G.P.S. METHODS.

ISSUED WITH SURVEY REV. 2 DATE: 3/25/99

FILE INFO: I:\2604.000\APLATS\DELAWARE\0404UTP.dwg 1=2000 03/25/1999 14:28 JSK