

**RIGHT OF WAY AGREEMENT**

Agreement made on the date appearing below, by and between Elwood F. David and Bobbi David, husband and wife, of Yellowstone County, Montana, hereinafter "Davids", the North Piney Group, a Wyoming partnership, of Sheridan County, Wyoming, hereinafter "NPG", and S.K. Johnston, Jr., a married man dealing in his sole and separate property, of Atlanta, Georgia, hereinafter "Johnston":

**WHEREAS:**

1.

Davids own certain real property in Sheridan County, Wyoming, described as:

Township 53 North, Range 84 West, 6th P.M.;  
Sheridan County, Wyoming

§ 1: SW/4SW/4  
§ 2: SE/4SE/4

2.

NPG owns certain real property in Sheridan County, Wyoming, described as:

Township 53 North, Range 84 West, 6th P.M.;  
Sheridan County, Wyoming

§ 2: SW/4SE/4  
§11: A portion of the W/2NE/4

3.

Johnston owns certain real property in Sheridan County, Wyoming, described as:

Township 53 North, Range 84 West, 6th P.M.;  
Sheridan County, Wyoming

§ 2: All, except S/2S/2

4.

There is an existing road from Sheridan County Road No. 2 (North Piney Road) to Davids' real property, above described, lying along and across the above described real property of NPG and Johnston, the centerline of which road being described on Exhibit A (as road traverses NPG real property) and Exhibit B (as road traverses Johnston real property).

5.

Exhibit C is a bearing and distance table as relates to the courses, bearings and distances as described Exhibits A and B and is incorporated for certain terms hereinafter expressed for ease of description and recitation.

6.

Although access, ingress and egress to and from Davids' real property has been along and across the existing road described on Exhibits A and B, there has not been a legally established and legally enforceable connection with and outlet to a public road.

7.

The parties wish to reduce their negotiated understandings and agreement to writing in an instrument that can be placed of record in the office of the County Clerk for Sheridan County, Wyoming;

WHEREFORE, subject to the terms, conditions and covenants as set forth below, it is agreed:

## I.

NPG, for and in consideration of the mutual covenants and the payment of monies hereinafter described, hereby conveys, grants and warrants to Davids a right of way 20 feet in width lying 10 feet each side of a centerline situate in the SW/4SE/4 of §2 and a portion of the W/2NE/4 of §11, Township 53 North, Range 84 West, 6th P.M. Sheridan County, Wyoming, more particularly described on Exhibit A, attached hereto and incorporated herein by reference.

## II.

Johnston, for and in consideration of the mutual covenants and the payment of monies hereinafter described hereby conveys, grants and warrants to Davids a right of way 20 feet in width lying 10 feet each side of a centerline situate in the NW/4SE/4 and NE/4SE/4 of §2, Township 53 North, Range 84 West, 6th P.M., Sheridan County, Wyoming, more particularly described on Exhibit B attached hereto and incorporated herein by reference.

III.

Davids' use of the road and activities thereon shall be restricted solely to the right of way as set forth for agricultural, residential or recreational use, by the Davids and their invitees. Commercial or industrial use is not permitted. And, the right of way shall not be used by Davids for racing or parking of vehicles. Davids shall provide four (4) commercial quality 2'x 2' signs and posts that will state "Private Road Easement through private lands. Passage by authorized persons only. Absolutely No Trespassing Allowed off this Roadway. Violators will be Prosecuted" Said signs to be installed at locations designated by NPG.

IV.

The Davids shall be responsible and liable for all costs and expenses of the survey conducted to establish the description of the right of way as described on Exhibits A and B.

V.

Davids shall pay to NPG the sum of \$4,000.00 for the right of way as described on Exhibit A (6104.28 linear feet at \$.6552 per foot), receipt of which is acknowledged.

VI.

Davids shall pay to Johnston the sum of \$527.65 (805.33 linear feet at \$.6552 per foot), receipt of which is acknowledged.

VII.

Prior to this agreement NPG has performed maintenance and repairs on certain portions of the road as set forth on Exhibit A and Davids shall pay to NPG the sum of \$500.00 as the Davids' proportionate share of such maintenance and repair.

VIII.

Davids shall install a 16 foot "Powder River" style gate on a road that is Northwesterly of deflection point L30 as described on Exhibit C, together with substantial brace posts and panels to prevent Davids or Davids' invitees, or other persons, from leaving the right of way established by this agreement.

IX.

Davids will install a lockable gate with wings on or near the boundary between NPG real property and Johnston real property, at a convenient point which will allow construction

of a vehicle turn-around on NPG's side of the gate at NPG's cost and convenience with regard to the topography. It is understood that the gate and turn-around will be located at a mutually agreeable point between deflection points L48 and L51 as set forth on Exhibit C. It is further understood that the location and placement of the gate and/or turn-around shall not be considered as representing or establishing or confirming the location of any boundary between and among the parties and, further, such location is for convenience only. Access through the gate shall be limited to the Davids and their invitees, and Johnston and his agents.

X.

The existing lockable gate at the point where the road leaves the Sheridan County Road No. 2 shall remain locked at all times regardless of whether Davids are on their property or not, and Davids will be allowed to keep and maintain a key to the lock on said gate.

XI.

In the event NPG desires to reconstruct, realign, extend or improve all or part of the road, such will be permissible at NPG's expense upon the conditions that Davids' access, ingress and egress to their real property is not impaired and in the event of realignment an amended description and agreement as to the right of way will be provided by NPG at its expense.

XII.

NPG has reserved the right to dedicate to public use or private use the portions of the right of way upon NPG real property, which right shall be subject to non-impairment of Davids' access, ingress and egress to their real property and to the requirement that in the event of such dedication the parties shall renegotiate and amend the maintenance liabilities as hereinafter described.

XIII.

Maintenance of the right of way shall be provided as follows:

- a. From deflection point L30 to deflection point L53, roadway maintenance shall be the responsibility and expense of Davids, to include weed control and removal of any accumulation of trash, as reasonably necessary.

- b. For the roadway between deflection points L1 and L30, Davids shall pay for 1/3 and NPG shall pay for 2/3 of the roadway maintenance. NPG shall define scope of such work, which shall be provided to Davids for information and consultation. Bids for such maintenance will be solicited and the Davids will be entitled to bid or solicit bids, with a specific and reasonable date set for acceptance and opening of bids. NPG shall select a responsible contractor who submits the lowest responsible bid.
- c. Maintenance shall be to standards for a four-wheel drive road and any party desiring maintenance above such standard shall be liable for such additional cost.

#### XIV.

In the event of obstructions to the road caused by fallen trees, fallen rock, landslide, and snow, the following shall apply:

- a. All obstructions that can be cleared by hand, chainsaw or hand tools shall be cleared at the expense of the party desiring passage.
- b. From deflection point L1 to L30 as set forth on Exhibit C, Davids shall pay 1/3 and NPG shall pay 2/3 of this cost to remove and clear obstructions such as landslide, fallen rock, fallen timber, etc. NPG and Davids are required to consult with each other prior to hiring outside contractors or rental of heavy equipment.
- c. From deflection point L30 to L53 as set forth on Exhibit C, Davids shall be responsible to pay the cost of removal of obstructions such as landslide, fallen rock or fallen timber, as desired.
- d. Snow removal shall be at the cost of the party desiring removal, unless mutually desired in which event the cost shall be 1/3 to Davids and 2/3 to NPG for the mutually desired snow removal.

#### XV.

This agreement shall be binding upon the heirs, assigns and successors in interest of the parties hereto.

DATED this 12 day of October, 1993.

Elwood F. David  
Elwood F. David

S.K. Johnston, Jr.  
S.K. Johnston, Jr.

Bobbi David  
Bobbi David

North Pipey Group  
By: Allen D. Canell  
George B. Kethen  
Whitely Wells

STATE OF Montana )  
 ) ss.  
 County of Yellowstone )

The foregoing instrument was acknowledged before me this 12th day of October, 1993, by Elwood F. David.



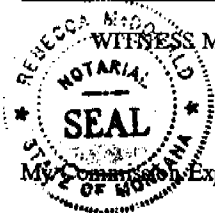
WITNESS MY HAND AND OFFICIAL SEAL.

Rebecca M. Duce  
 Notary Public

My Commission Expires: 7-15-95

STATE OF Montana )  
 ) ss.  
 County of Yellowstone )

The foregoing instrument was acknowledged before me this 12th day of October, 1993, by Bobbi David.



WITNESS MY HAND AND OFFICIAL SEAL.

Rebecca M. Duce  
 Notary Public

My Commission Expires: 7-15-95

STATE OF Wyoming )  
 ) ss.  
 County of Shoshone )

The foregoing instrument was acknowledged before me this 30th day of September, 1993, by S.K. Johnston, Jr.

WITNESS MY HAND AND OFFICIAL SEAL.



Richard M. Davis, Jr.  
 Notary Public

My Commission Expires: April 15, 1997

STATE OF Wyoming )  
 ) ss.  
 County of STEELE )

The foregoing instrument was acknowledged before me this 7 day of OCTOBER, 1993, by STEVE CARROLL, CELESTE FLETCHER, and WHITE WELLS, partners of the North Piney Group, a Wyoming Corporation.

WITNESS MY HAND AND OFFICIAL SEAL.

Donald Johnson  
 Notary Public

My Commission Expires: APRIL 13, 1997



EXHIBIT "A" TO EASEMENT OF WAY AGREEMENT BETWEEN DAVID J. & NORTH PINEY GROUP

LEGAL DESCRIPTION

RE: ACCESS EASEMENT FOR WOODY DAVID  
RECORD OWNER: NORTH PINEY GROUP

AN ACCESS EASEMENT TWENTY (20) FEET WIDE LYING TEN (10) FEET EACH SIDE OF CENTERLINE SITUATED IN THE SW1/4SE1/4 OF SECTION 2 AND THE WEST1/2NE1/4 OF SECTION 11, TOWNSHIP 53 NORTH, RANGE 84 WEST, 6TH P.M., SHERIDAN COUNTY, WYOMING; SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 2; THENCE S55°18'17"W, 2422.46 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED EASEMENT, SAID POINT LYING ON THE CENTERLINE OF THE NORTH PINEY COUNTY ROAD (NO. 2); THENCE N07°14'31"W, 46.99 FEET ALONG THE CENTERLINE OF AN EXISTING ROAD TO A POINT; THENCE N48°29'45"E, 24.13 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S89°31'41"E, 165.50 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N82°40'11"E, 111.33 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S84°50'41"E, 147.61 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N76°11'32"E, 131.70 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N01°01'21"E, 40.21 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N70°29'44"W, 71.17 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N49°53'13"W, 138.83 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N45°52'40"W, 103.40 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N16°50'47"W, 134.03 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N66°20'09"W, 44.25 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S80°03'53"W, 71.22 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N55°40'53"W, 116.48 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N20°59'32"W, 115.82 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N66°31'15"E, 30.87 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S43°07'52"E, 96.48 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S89°44'24"E, 51.36 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N55°55'10"E, 157.76 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S60°53'34"E, 140.53 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S45°21'30"E, 107.62 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N65°59'42"E, 32.82 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N26°20'52"W, 324.45 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N72°58'04"W, 74.32 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N87°09'35"W, 110.38 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N37°09'51"W, 55.22 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N25°51'32"W, 679.72 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N32°26'08"W, 180.85 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N37°44'21"W, 102.48 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N55°32'32"E, 22.63 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S58°49'41"E, 100.98 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S49°21'30"E, 114.80 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S45°55'17"E, 177.39 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S53°32'43"E, 183.43 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S44°40'15"E, 117.83 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S37°00'40"E, 86.31 FEET ALONG SAID CENTERLINE TO A POINT; THENCE S71°21'23"E, 52.09 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N83°17'21"E, 113.41 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N45°41'30"E, 48.10 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N01°58'01"E, 56.33 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N15°24'11"W, 114.31 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N19°02'50"W, 132.35 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N10°50'44"W, 487.90 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N12°59'48"W, 319.62 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N00°24'14"W, 156.80 FEET ALONG SAID CENTERLINE TO A POINT; THENCE N11°49'46"E, 212.37 FEET ALONG SAID CENTERLINE OF AN EXISTING ROAD TO THE POINT OF TERMINUS, SAID POINT LYING ON THE NORTH LINE OF SAID SW1/4SE1/4 OF SECTION 2 AND BEING N51°21'38"W, 2133.59 FEET FROM SAID SOUTHEAST CORNER OF SECTION 2.

RE: ACCESS EASEMENT FOR WOODY DAVID  
RECORD OWNER: C.K. JOHNSTON

EXHIBIT "B" TO RIGHT OF WAY AGREEMENT  
BETWEEN D. DS & NORTH PINEY GROUP

472

AN ACCESS EASEMENT TWENTY (20) FEET WIDE LYING TEN (10)  
FEET EACH SIDE OF CENTERLINE SITUATED IN THE NW1/4SE1/4 AND  
NE1/4SE1/4 OF SECTION 2, TOWNSHIP 53 NORTH, RANGE 84 WEST,  
6TH P.M., SHERIDAN COUNTY, WYOMING; SAID CENTERLINE BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 2;  
THENCE N51°21'38"W, 2133.59 FEET TO THE POINT OF BEGINNING OF  
THE HEREIN DESCRIBED EASEMENT, SAID POINT LYING ON THE SOUTH  
LINE OF SAID NW1/4SE1/4 AND THE CENTERLINE OF AN EXISTING ROAD;  
THENCE N11°45'32"E, 166.15 FEET ALONG SAID CENTERLINE OF AN  
EXISTING ROAD TO A POINT; THENCE N60°19'46"E, 86.96 FEET ALONG  
SAID CENTERLINE TO A POINT; THENCE N81°26'24"E, 75.14 FEET ALONG  
SAID CENTERLINE TO A POINT; THENCE S83°52'38"E, 67.17 FEET ALONG  
SAID CENTERLINE TO A POINT; THENCE S89°38'22"E, 167.83 FEET ALONG  
SAID CENTERLINE TO A POINT; THENCE S54°59'58"E, 121.88 FEET ALONG  
SAID CENTERLINE TO A POINT; THENCE S42°44'10"E, 120.20 FEET ALONG  
SAID CENTERLINE OF AN EXISTING ROAD TO THE POINT OF TERMINUS, SAID  
POINT LYING ON THE SOUTH LINE OF SAID NE1/4SE1/4 OF SECTION 2 AND  
BEING N39°06'14"W, 1707.97 FEET FROM SAID SOUTHEAST CORNER OF  
SECTION 2.

BASIS OF BEARINGS IS TRUE NORTH



BEARING AND DISTANCE TABLE

LINE	DIRECTION	DISTANCE
L1	N 07°14'31" W	46.99'
L2	N 48°29'45" E	24.13'
L3	S 89°31'41" E	165.50'
L4	N 82°40'11" E	111.33'
L5	S 84°50'41" E	147.61'
L6	N 76°11'32" E	131.70'
L7	N 01°01'21" E	40.21'
L8	N 70°29'44" W	71.17'
L9	N 49°53'13" W	138.83'
L10	N 45°52'40" W	103.40'
L11	N 16°50'47" W	134.03'
L12	N 66°20'09" W	44.25'
L13	S 80°03'53" W	71.22'
L14	N 55°40'53" W	116.48'
L15	N 20°59'32" W	115.82'
L16	N 66°31'15" E	30.87'
L17	S 43°07'52" E	96.48'
L18	S 89°44'24" E	51.36'
L19	N 55°55'10" E	157.76'
L20	S 60°53'34" E	140.53'
L21	S 45°21'30" E	107.62'
L22	N 65°59'42" E	32.82'
L23	N 26°20'52" W	324.45'
L24	N 72°58'04" W	74.32'
L25	N 87°09'35" W	110.38'
L26	N 37°09'51" W	55.22'
L27	N 25°51'32" W	679.72'
L28	N 32°26'08" W	180.95'
L29	N 37°44'21" W	102.48'
L30	N 55°32'32" E	22.63'
L31	S 58°49'41" E	100.98'
L32	S 49°21'30" E	114.80'
L33	S 45°55'17" E	177.39'
L34	S 53°32'43" E	183.43'
L35	S 44°40'15" E	117.83'
L36	S 37°00'40" E	86.31'
L37	S 71°21'23" E	52.09'
L38	N 83°17'21" E	113.41'
L39	N 45°41'30" E	48.10'
L40	N 01°58'01" E	56.33'
L41	N 15°24'11" W	114.31'
L42	N 19°02'50" W	132.35'
L43	N 10°50'44" W	487.90'
L44	N 12°59'48" W	319.62'
L45	N 00°24'14" W	156.80'
L46	N 11°49'46" E	212.37'
L47	N 11°45'32" E	166.15'
L48	N 60°19'46" E	86.96'
L49	N 81°26'24" E	75.14'
L50	S 83°52'38" E	67.17'
L51	S 69°38'22" E	167.83'
L52	S 54°59'58" E	121.88'
L53	S 42°44'10" E	120.20'

131.3.75(R)

211  
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