

County Road Use and Fire Agreement

This agreement is made and entered into on this date by and between Crook County, Wyoming, a political subdivision duly organized pursuant to Wyo. Stat. Ann. § 18-1-101 et seq., hereinafter referred to as “County”, and ONEOK Elk Creek Pipeline, L.L.C., an Oklahoma limited liability company, whose address is set forth below, hereinafter referred to as “Company”.

Witnesseth

WHEREAS, the Company is engaged generally in the business of pipeline construction, maintenance and operation for the transportation of natural gas liquids and other hydrocarbon products; and

WHEREAS, the Company has received all necessary access and utility crossing permits from the county to construct, maintain and operate pipeline located near and intersecting improved County Roads Mona # 222, Oak Creek #81, Farrall #144, Government Valley #249, Moskee #207, Fuller #256, Clark #247, Banks #49, Schlup #198 and unimproved County Roads Green Mountain Inyan Kara #35, Black Buttes #4, Sundance-Inyan Kara #92, Kara Mountain Road #278 or any other affected county road in Crook County, Wyoming (collectively the “County Roads”); and

WHEREAS, said pipeline operations may continue for twenty (20) plus years; and

WHEREAS the Company may construct, maintain and operate additional pipelines in the future; and

WHEREAS, the County and its residents are generally concerned about potential damage to the County roads, culverts, cattle guards, and appurtenances, noise disturbance from trucks, dust creation, the safety of residents driving the road including ranchers, tourists, and sightseers; interference with wildlife, road maintenance and open range protection; and

WHEREAS, it is the desire of the County and the Company to work cooperatively to address the concerns of the County and to facilitate the Company's development of its pipeline operations; and

WHEREAS, the County has the authority granted by Title 18, 24 and 31 of the Wyoming State Statutes and any amendment thereto to set speed, height and weight limits on County Roads and to protect County Roads from damage by users including the Company at any time.

AGREEMENT

Now, therefore, in and for the mutual promises and consideration as described herein, the parties agree as follows:

1. This agreement pertains to the construction of the Elk Creek Pipeline and will expire two (2) years after completion of the construction of the pipeline.
2. The County agrees, at the Company's request and expense, to install any additional appropriate and reasonable permanent signage on the County Roads, and to work with the Company on any desire to alter or improve any portion of the County Roads (unsafe corners, hills, etc.).
3. The County agrees that the Crook County Sheriff's Department will patrol for traffic control as the County Sheriff sees fit.
4. The County or its contractor at the Company's expense shall reclaim all disturbed areas, monitor and manage noxious weeds in the pipeline easement within Crook County's Right of Way in compliance with the Crook County Weed and Pest.
5. The Company or its contractor at the Company's expense shall provide repairs and maintenance matching the existing road surface (i.e., limestone J-base gravel for gravel

roads and asphalt) as needed to keep the roads in safe and adequate condition for its use or when reasonably requested by the Road and Bridge Superintendent.

6. The Company shall educate and emphasize to their truck drivers and all contractors regarding applicable speed limits and potential hazards for sightseers, local traffic and wildlife.
7. The Company shall respect the open range and the danger of livestock grazing along the route, by implementing speed control measures and stopping as necessary along the route. In the event livestock is injured or killed by Company's actions on the County Roads, Company shall pay the owner for any livestock killed or injured.
8. The County or its contractor at the Company's expense shall provide one application of dust control (magnesium chloride) on all the county roads described in this agreement before construction starts. This will be applied at ½ gallon per square yard application rate. The portion of the following county roads to be applied dust control are set forth as follows:
 - a. Mona # 222 - from Oak Creek #81 to ¼ mile past pipeline crossing
 - b. Oak Creek #81 - from HWY 24 to Mona #222
 - c. Farrall #144 - from HWY 111 to ¼ mile past pipeline crossing
 - d. Government Valley #249 - from HWY 14 to ¼ mile past pipeline crossing
 - e. Moskee #207 - paved road, will not require treatment
 - f. Fuller #256 – from the Moskee #207 to ¼ mile past pipeline crossing.
 - g. Clark #247 - from HWY 585 to ¼ mile past pipeline crossing
 - h. Banks #49 - from HWY 585 to Kara mountain road #278
 - i. Schlup #198 - from HWY 585 to ¼ mile past pipeline crossing

- j. Green Mountain Inyan Kara #35- unimproved, no requirement-vacated 6/6/2018.
 - k. Black Buttes #4 - unimproved, no requirement-to be vacated.
 - l. Sundance-Inyan Kara #92- unimproved, no requirement
 - m. Kara Mountain Road #278- from Banks #49 to ¼ mile past pipeline crossing
 - n. And any other County Road used by the Company
9. The County or its contractor at the Company's expense, which has been pre-determined and the final amount has been specified in paragraph 14 below, shall rebuild to county road standards (i.e., *County Road Fund Manual, State and Federal Programs, Adapted by: Wyoming County Road Standards Committee, June 10, 2011*) after pipeline construction is completed the following roads:
- a. Fuller #256 from the intersection of South 27 Street East near the Green Mountain Cemetery to the Moskee #207.
 - b. Schlup #198- from HWY 585 to ¼ mile past pipeline crossing.
10. Due to the construction of the pipeline, the Company shall pay the County to maintain and repair damage caused by their trucks, contracted trucks, vendors and all pipeline related traffic as a result of its use, including reasonable wear and tear of the County Road. The Company shall follow all safety and signing measures to notify the traveling public of construction and maintenance work as outlined in the MUCTD (Manual on Uniform Traffic Control Devices) codes. The Company shall be responsible for its contractors, vendors and pipeline related activity.
11. Except due to emergency situations, the Company shall notify the Road and Bridge Superintendent of the scope of the operation in writing or by electronic means thirty (30)

days before commencing construction or significant maintenance operations of the pipeline and within seven (7) days of ceasing operations on County Roads.

12. The Company shall meet with the Road and Bridge Superintendent upon the completion of any pipeline installation to view and review the damages caused by the Company, its trucks, contracted trucks, vendors and all pipeline related traffic as a result of its use, including reasonable wear and tear and determines the necessary repairs to be made by the Company.
13. The Company shall obtain any required Mobile Machinery Permits, licenses and other local government fee and taxes and notify its employees, contractors and vendors of said obligations.
14. The Company shall post a performance bond from a surety licensed in Wyoming, an irrevocable letter of credit or a cash deposit in the amount of \$500,000.00 to be held by the County Clerk for damages claims against the Company by the County as determined by the Road and Bridge Superintendent. Notwithstanding the foregoing, the County shall follow the dispute resolution procedure herein prior to attempting to collect from the performance bond, letter of credit or cash deposit. The bond, letter of credit or cash deposit shall be released two (2) years after completion of the construction of the pipeline. This paragraph does not limit damages.
15. The Company shall pay **\$(COUNTY INSERT COST OF DOING WORK)** for the cost to rebuild the roads and apply dust control before obtaining any crossing permits. This paragraph does not limit damages, but it fully compensates the County to perform the services identified in Paragraphs 7 and 8 above.

16. The County Road and Bridge Superintendent shall have the option of completing the maintenance and damage repair itself, hiring a contractor or having the Company do so.
17. The County shall charge the Company for services provided based upon the attached County rate schedule. If said rate is not listed the rate shall be the rate used by the State of Wyoming to calculate equipment and operator expenses from the “Blue Book” and “equipmentwatch.com”.
18. The Company shall plan for wildfire prevention and comply with any County Resolution imposing burning restrictions pursuant to W.S. 35-9-301 through 304 normally captions “Crook County Open Burning Restriction and Ban on the Use of Fireworks” and any amendment or replacement thereto; and pay for the cost of fire suppression and damages caused by any fire started by any activities associated with the pipeline construction by the Company’s employees, contractors, sub-contractors and vendors. Fire suppression costs shall be determined pursuant to the rate schedules used in the current INTERAGENCY COOPERATIVE FIRE MANAGEMENT AND STAFFORD ACT RESPONSE AGREEMENT-WYOMING.

DISPUTE RESOLUTION

The County and the Company agree they shall cooperate in good faith with each other regarding all matters necessary to carry out the full intent and purpose of this agreement. The Road and Bridge Superintendent shall inspect County Roads from time to time and shall report to the Company, in writing or electronically, the repairs and maintenance which are necessary, as a result of the Company’s operations including its employees, contractors or vendors, to bring said roads into compliance with all applicable state and County Road standards as determined by the Road and Bridge Superintendent, namely those provided in the *County Road Fund Manual, State*

and Federal Programs, Adapted by: Wyoming County Road Standards Committee, June 10, 2011).

The County may repair and maintain the county roads as the need arises.

ROADS: If the Company disputes that the Company's employees, contractors and or vendors caused the damage and the need for the suggested repairs or maintenance, the Company shall notify the Road and Bridge Superintendent of said dispute within fifteen (15) days and meet with the Road and Bridge Superintendent on the road in question. If the parties are unable to reach agreement on necessary repairs and maintenance within fifteen (15) days of this meeting, the parties agree to meet at the next regular meeting with the Board of Crook County Commissioners in attempt to resolve the dispute. If the dispute remains unresolved, either party may file suit in the Crook County District Court to determine the repairs, maintenance and damages caused to the County.

FIRE: If the Company disputes that the Company's employees, contractors and or vendors caused any fire that ultimately caused damage determined by the County Fire Warden the Company shall notify the County Fire Warden of said dispute within fifteen (15) days and meet with the Fire Warden. If the parties are unable to reach agreement on the damages within fifteen (15) days of this meeting, the parties agree to meet at the next regular meeting with the Board of Crook County Commissioners in attempt to resolve the dispute. If the dispute remains unresolved, either party may file suit in the Crook County District Court to determine the damages caused to the County. This clause supersedes the free public service doctrine ruling in State v. Black Hills Power, Inc., 354 P.3d 83, 89, 2015 WY 99, ¶ 22 (Wyo., 2015).

Nothing in this agreement shall be constructed to limit any damage claims by the County against the Company, its employees, contractors, subcontractors and vendors.

RESERVED RIGHTS

The County reserves the right at any time to set speed, height and weight limits on County Roads in any manner allowed by Title 18, 24 and 31 of the Wyoming State Statutes and any amendment thereto.

NO AGENCY RELATIONSHIP CREATED

Nothing in this agreement shall be interpreted as authorizing the Company or its agents, contractors and/or employees to act as agents or representatives of or on behalf of the County to incur any obligation of any kind on behalf of the County, nor shall anything in this agreement shall be interpreted as authorizing the County or its agents, contractors and/or employees to act as agents or representatives of or on behalf of the Company to incur any obligation of any kind on behalf of the Company.

NON EXCLUSIVE AGREEMENT

This agreement does not grant the Company any exclusive right to provide services to the County, nor does it give the Company any preference on the use of its services.

GENERAL PROVISIONS

1. **Termination of Agreement:** This agreement may not be terminated by the Company, and may not be terminated without cause by the County with ninety (90) days written notice by personal delivery, or the sending of a notice by certified mail to the mailing address listed below.

2. **Compliance with applicable laws:**

The parties agree to comply with all applicable federal, state, and local laws, rules and regulations in the performance of this agreement. Failure to do so by the Company will give the County the right to terminate this agreement if the Company does not cure the breach within ninety (90) days.

3. **Wyoming law governs:**

The construction, interpretation and enforcement of this agreement shall be governed by the laws of the State of Wyoming and the Sixth Judicial Circuit or District Court of Crook County, Wyoming shall have venue and original jurisdiction over any action arising out of this contract.

4. **No kick-backs:**

The Company certifies and warrants that no gratuities, kick-backs, or contingency fees were paid in connection with this agreement, nor were any fees, commissions, gifts, or other considerations contingent upon the award of this agreement.

5. **Governmental immunity:**

Nothing in this Agreement shall be construed to be a waiver of sovereign and or governmental immunity by the County pursuant to Wyoming Statute § 1-39-101 et seq. The County hereby asserts all immunities and protections granted by the Wyoming Governmental Claims Act. The Company retains any and all defenses provided by law with regard to any claim or action based on this agreement or any other matter.

6. **Third Party Beneficiaries:**

The Parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this agreement shall operate only between the parties to this agreement, and shall inure solely to the benefit of the parties to this agreement. The provisions of this agreement are intended only to assist the parties in determining and performing their obligations under this agreement. The parties to this agreement intend and expressly agree that only parties signatory to this agreement shall

have any legal or equitable right to seek to enforce this agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this agreement, or to bring an action for the breach of this agreement.

7. **Force Majeure:**

Neither party shall be liable for failure to perform under this agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

8. **Assignment:**

The Company shall not assign or transfer this agreement or any right herein to any other person, company, or corporation without previous consent in writing of County, which consent shall not be reasonably withheld, conditioned, delayed or denied.

9. **Liability:**

Each party is responsible for its own liability except as expressed herein, and may insure as it sees fit.

DOCUMENTS

The documents which comprise the Agreement between County and Company and which are attached hereto and made a part of this agreement consist of the following:

- a. This agreement [pages 1 to 13 inclusive],
- b. Any amendments, additional agreements, modifications, including change orders, which are in writing, executed by both parties hereto, and which are to be delivered after execution of this agreement.
- c. Crook County Equipment Rates with Operator.
- d. Rate schedules used in the current Interagency Cooperative Fire Management and Stafford Act Response Agreement-Wyoming.

CONTACT PERSON

The following named persons shall be the point of contact for any issues concerning the agreement:

County:

Crook County, Wyoming
% Morgan Ellsbury
Road and Bridge Superintendent
PO Box 995
Sundance, WY 82729
Telephone: (307) 283-1441
Cell Phone (307) 281-1000
Fax: (307) 283-2323
morgane@crookcounty.wy.gov

Company:

ONEOK ELK Creek Pipeline, L.L.C. (OK)
% Vice President - Operations
100 West Fifth Street
Tulsa, OK 74103

Telephone: (918) 588-7000

Either party may change the contact person identified herein by providing notice to the other party, which notice shall be mailed to the address above and shall identify the new contact person by name and/or title and provide the address and telephone number of the new contact person.

IN WITNESS WHEREOF, the parties have executed this Agreement on the undersigned dates.

COMPANY: ONEOK Elk Creek Pipeline, L.L.C.

By _____
Date

Tax ID No. _____

Approved by the Crook County Road and Bridge Superintendent:

By: Morgan Ellsbury _____
Date

Approved by the Crook County Fire Warden:

By: Jeff Garman _____
Date

BOARD OF COUNTY COMMISSIONERS OF CROOK COUNTY, WYOMING

KELLY B. DENNIS, Chairman

JEANNE A. WHALEN, Vice Chairman

STEVE J. STAHLA, Member

State of Wyoming }

}

County of Crook }

Signed or attested before me on (date) _____

by KELLY B. DENNIS, Chairman and JEANNE A. WHALEN, Vice Chairwoman, and STEVE J. STAHLA, Member of the Board of County Commissioners in and for Crook County, WY
(Seal, if any)

My commission expires:

LINDA FRITZ, COUNTY CLERK