

U. S. Production Operations
Piceance Rockies Gas



5555 San Felipe Road
Houston, TX 77056-2723
Telephone: (713) 629-6600

June 26, 2007

Berry Petroleum Company
Attn: Mr. Joseph Stewart
950 17th Street, Suite 2400
Denver, CO 80202

Teton Piceance, LLC
Attn: Mr. Andrew M. (Toby) Schultz
410 17th Street, Suite 1850
Denver, CO 80202

PGR Partners, LLC
Attn: Mr. Chuck Williams
c/o Delta Petroleum Corporation
370 17th Street, Suite 4300
Denver, CO 80202

Re: Surface Sharing Agreement - Latham Acreage
Portions of Sections 29, 32 and 33, T5S, R96W, and
Portions of Section 1, T6S, R97W, 6th P.M.
Garfield County, Colorado

Gentlemen:

This will memorialize the arrangement ("Agreement") between Berry Petroleum Company ("Berry") and Marathon Oil Company ("Marathon") for the purchase and sharing of the above-referenced Latham surface property consisting of approximately 1,215 acres Berry acquired on November 13, 2006, from Thomas F. Latham and the Estate of Charles Harvey Latham (collectively "Lathams"), which property and lands are described on Exhibit "A," attached and incorporated herein ("Lands").

It is our understanding Berry has an arrangement with Teton Piceance, LLC, a Colorado limited liability company whose address is 410 17th Street, Suite 1850, Denver, Colorado 80202 ("Teton"), and PGR Partners, LLC, a Colorado limited liability company whose address is 370 17th Street, Suite 4300, Denver, Colorado 80202 ("PGR"), whereby Berry will assign a 12.5% undivided interest in and to the Lands to Teton and an undivided 12.5% interest in and to the Lands to PGR. Upon Berry assigning the aforementioned interests to Teton, PGR, and the

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conveyance described herein to Marathon, the Lands will be owned in their entirety by Berry, Marathon, Teton and PGR as co-tenants in the following undivided percentages:

Berry	25%
Marathon	50%
Teton	12.5%
PGR	<u>12.5%</u>
Total	100%

Berry, Marathon, Teton and PGR may be referred to individually as "Party" or collectively as "Parties."

In consideration of the covenants and promises to be performed hereunder, the adequacy and receipt of which are hereby acknowledged, the Parties agree as follows:

1. Purchase and Conveyance. Marathon shall pay Berry the amount of One Million, Two Hundred Fifteen Thousand, Ten and 48/100 Dollars (\$1,215,010.48) to Berry, and Berry shall convey to Marathon, by Special Warranty Deed (with subrogation and assignment of the Lathams' warranty), an undivided fifty percent (50%) interest in the Lands.

2. Operations and Use of the Land. The Parties each own respective oil and gas leasehold interests or mineral interests underlying the Lands, as described and depicted on the attached Exhibit "B." For the sake of clarity, the Teton, PGR and Berry interests are referred to and depicted on Exhibit "A" as "Berry Leasehold," and Marathon interests are referred to as "Marathon Leasehold." Each Party shall have the right to construct their well pads and associated oil and gas facilities and infrastructure on that portion of the Lands that overlie their leasehold minerals, as depicted on Exhibit "B." If a Party desires to utilize the surface of the Lands overlying another Party's leasehold, it shall consult with the other Party whose leasehold underlies such surface, and the Parties shall negotiate in good faith and cooperate with one another in trying to arrange an acceptable and appropriate surface location for such use. The Parties understand and agree this Agreement and their respective rights and obligations are subject to: (a) the Grazing Lease dated June 18, 2007, between Berry and Latham Cattle Company; (b) the condition to grant to Chevron Shale Oil Company a non-exclusive right-of-way, as more fully set forth in paragraph 8 of the January 26, 2007 Agreement for the Garden Gulch Road Extension; and (c) the commitment to grant a non-exclusive right-of-way to Williams Production RMT Company for that portion of the Garden Gulch Road Extension as it traverses the Lands.

The Parties shall have the right to utilize the Lands for easements or rights-of-way for roads, lines or pipelines that may be beneficial for their operations; provided, however, the Party proposing such right-of-way or easement shall consult with the other Party(ies) whose leasehold interest underlies the proposed route as to the location of the easement or right-of-way. The Parties agree to cooperate with one another in the placement of roads, facilities or infrastructure and shall, to the extent reasonably practicable, minimize interference with the operations of the other Parties. In addition, the Parties agree to use, to the extent reasonably practicable, common roads and utility and pipeline corridors in order to minimize the number of roads and corridors on

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the Lands. Notwithstanding anything to the contrary, each Party shall be permitted access to its leasehold interest, its wells and the Water Rights (as described in Paragraph 4) by the other Parties.

3. Common Facilities and Operations. The Parties agree to coordinate with one another in planning, designing and constructing oil and gas facilities and infrastructure on the Lands. The Parties shall communicate with one another in determining whether it is practical and desirable to share any facilities or infrastructure that may be located on the Lands, including, among others, evaporation pits, water supply, roads, gathering lines, communication towers, storage yards, etc. Nothing in this paragraph shall be deemed to require any Party to share or join in the construction of any facilities or infrastructure. If the Parties desire to jointly share or construct facilities or any type of infrastructure, they shall memorialize their arrangement in a written agreement.

Upon the Parties reaching agreement as to the location of any roads, lines or pipelines (whether gathering, water supply or discharge, electric or injection), or other infrastructure, the Parties agree to execute and record of record an easement and/or right-of-way for the road, line or pipeline, whichever is applicable.

4. Water Rights. The Parties hereby agree to share, in proportion to their ownership interest in the Lands, all water rights associated with or appurtenant to the Lands, including, among others, the rights acquired by Berry from the Lathams under the November 13, 2006 Quitclaim Deed (collectively "Water Rights"). Each Party agrees to allow the other Parties reasonable access across the Lands underlying its leasehold interest to reach such water.

5. Obligations, Indemnities and Disclaimer of Warranties. Each Party agrees to be responsible for and **fully protect, indemnify, defend, release and hold each of the other Parties, their respective officers, employees, agents and representatives, harmless** for any injury to or death of any person and for any injury to property, including, among others, damages to the natural resources or the environment, arising out of or which relate to the Parties' respective activities, leasehold operations or use of the Lands, regardless of any actual or alleged negligence (active or passive, sole or concurrent), act, omission or other fault by any third party. The indemnity and release contained in this Paragraph 5 shall apply to any and all claims, demands, liabilities, losses, damages, expenses, proceedings and causes of action (including, among others, reasonable attorney's fees, court costs and other expenses in handling such matters) of whatsoever nature or kind (individually "Claim" or collectively "Claims"). Each Party agrees that the indemnification given by it applies to and covers the acts and omissions of its employees, agents, representatives, contractors and invitees.

To the extent a Party utilizes (whether intentionally or unintentionally) any roads, facilities or infrastructure constructed by another Party, each Party acknowledges that such use will be at its sole risk and with the understanding that no Party to this Agreement makes any representation or warranty of any kind (except such title warranties as are contained in the deeds into each Party), and that the Party constructing the road, facility or infrastructure expressly disclaims and negates any representations and warranties of any kind whatsoever, whether

express or implied, and that the same is being used and accepted "AS IS," "WHERE IS," "WITH ALL FAULTS" and "WITHOUT RECOURSE" on a daily basis.

6. Claims and Litigation. In the event any Party receives notice of any Claims (as defined above) from a Party or a third party, the Party shall promptly advise the other Parties in writing of the full particulars of such Claims, including supplying any available supporting documentation or information, and advise as to whether it will seek indemnification under this Agreement. If a Party seeks indemnification, the Party supplying the indemnification shall administer, control and handle the defense; provided, however, the indemnified Party shall fully cooperate in the defense and have the right, at its own expense, to participate in the matter. If a third party, including, among others, a governmental body, brings a Claim against any or all of the Parties to this Agreement by which title to or use of the Lands could be restricted or negatively impacted, the Parties agree to the extent practicable to cooperate with one another and form a joint defense.

7. Compliance With Applicable Laws. Each Party agrees to comply with all applicable federal, state and local laws, rules, orders, regulations or ordinances as pertain to their ownership, operation or activities on the Lands. The Parties agree that they will not dump, bury or intentionally dispose of waste, toxic substances, hazardous wastes or hazardous materials on the Lands unless prior written consent is received from each Party and all applicable governmental permits, approvals and procedures are obtained in advance of such activity.

8. Conditions of Use. As a condition to using the Lands, the Parties agree that their employees, agents, consultants, representatives, contractors and invitees shall not be permitted to have, use or carry any firearms, weapons, illegal drugs, alcohol or fireworks while on the Lands. Each Party shall keep the Lands free from all trash, debris and waste, and shall leave all gates locked or opened, as posted. Speed limit and other traffic postings shall be obeyed. The Lands shall not be used for hunting unless written permission is received from each Party.

The Parties agree that written notice of these conditions shall be communicated, supplied to and binding upon their respective employees, contractors, agents, representatives and invitees.

9. Taxes and Encumbrances. The Parties agree to nominate Berry as the Party responsible for receiving and paying any and all real property taxes and irrigation and water rights assessments or fees as they pertain to the surface of the Lands and Water Rights associated therewith. Upon being billed by the applicable taxation authority or water agency, Berry shall invoice each Party for their respective pro-rata share of the applicable taxes, assessments and fees, which shall be paid within thirty (30) days of receipt.

Each Party agrees to keep its interest in the Lands and the Lands free and clear of any liens, mortgages or other encumbrances (collectively "Encumbrance") that may impair or affect title and use of the Lands. If an Encumbrance is created, each Party, upon giving thirty (30) days' advance written notice to the Party whom it is alleged created the Encumbrance, shall have the right to satisfy the Encumbrance and upon doing so collect the amount paid to resolve the matter from the applicable Party in whose name the Encumbrance was created.

10. Relationship of the Parties. It is not the intention of the Parties to create a partnership, joint venture, mining partnership or association, and neither this Agreement, activities conducted hereunder, nor the ownership of the Lands, shall be construed as creating such relationship. The duties, obligations and liabilities of the Parties shall be several and separate, and not joint or collective. Each Party is solely responsible for its own obligations, uses and activities, and nothing contained in this Agreement shall be construed to constitute either Party to be a partner or agent of the other Parties. The Parties hereby expressly disclaim, waive and release any fiduciary duties that may be alleged or owed the other Parties. The Parties acknowledge they have jointly participated in the drafting and participation of this Agreement.

11. Disputes Between the Parties. In the event of any Claim or controversy between the Parties as it may relate to this Agreement, the Parties agree their senior management shall meet within thirty (30) days of receipt of a written notice of a Claim or controversy, and negotiate in good faith to resolve the matter. If the Claim or controversy is not resolved within the aforementioned 30-day period, a Party shall submit the matter to the Judicial Arbitrator Group ("JAG") (1601 Blake Street, Suite 400, Denver, Colorado 80202-1328) for binding arbitration, and the Parties shall collectively select one arbitrator who is generally knowledgeable as to the matter and of the law. If the Parties cannot agree on one arbitrator, JAG shall select one in accordance with this Agreement. The arbitrator shall resolve the matter within forty-five (45) days from the time the matter was submitted to JAG. The Parties shall cooperate with one another in the selection of the arbitrator and the scheduling of the binding arbitration. The Parties to the arbitration shall equally share all costs associated with the arbitration, including, among others, JAG's fees, except each Party will be solely responsible for its own attorney's fees and costs incurred in the arbitration. This agreement to submit the matter to binding arbitration and any subsequent final award issued by the arbitrator shall be binding and enforceable in U. S. District Court in Colorado.

12. Further Assurances and Memorandum of Agreement. The Parties agree to act in good faith and cooperate in taking whatever action may be reasonably necessary to effectuate the purposes and intent of this Agreement, and to execute and deliver appropriate documents or instruments that may be required. This Agreement shall not be recorded; provided, however, the Parties shall execute a Memorandum of Agreement, which may be recorded .

13. Covenant Running With the Land and Successors and Assigns. The terms of this Agreement shall be deemed a covenant running with the land and shall be binding upon the Parties and their respective heirs, successors and assigns. A Party's interest shall not be fractionalized, but shall be assigned, if at all, in total to its successor or assign. If any Party contemplates a transfer, it shall provide prior written notice to the other Parties, and shall require its potential successors or assigns to agree in writing to be bound by the terms of this Agreement. Nothing contained in this Agreement shall confer any rights, benefits or remedies to third parties other than successors and assigns, and no other party shall be deemed a third party beneficiary.

14. Notices. All notices or communications shall be written or, if oral, immediately followed up in writing and deemed to have been duly given when the written notice is personally delivered, or if mailed, by registered or certified mail, or if sent by a nationally recognized

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delivery service when received, all charges prepaid, with receipt confirmed to the respective addresses as designated in writing by each Party.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument and shall be binding upon the Parties when all have signed.

If the foregoing is acceptable, please sign in the space provided below and return one complete original to the undersigned at the above address.

Sincerely,

MARATHON OIL COMPANY



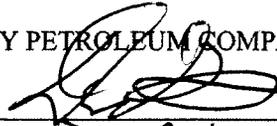
Dennis W. Arnst
Team Asset Manager
Piceance Rockies Gas

DWA:mes
Attachments

AGREED TO AND ACCEPTED BY:

Date: 7/20/07

BERRY PETROLEUM COMPANY

By  
Name Dan Anderson
Title ~~VP~~ VP Production
[Authorized Representative]

TETON PICEANCE, LLC

Date: _____

By _____
Name _____
Title _____
[Authorized Representative]

PGR PARTNERS, LLC

Date: _____

By _____
Name _____
Title _____
[Authorized Representative]

EXHIBIT "A"

Attached To and Made a Part of That Certain Surface Sharing Agreement
By and Between Marathon Oil Company, Berry Petroleum Company,
Teton Piceance, LLC, and PGR Partners, LLC

Parcel 1

Township 5 South, Range 96 West of the 6th P.M.

Section 29: S $\frac{1}{2}$ S $\frac{1}{2}$ [160 acres]

Section 32: NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ [400 acres]
(part of) Tax Parcel No. 213532100009 [560 acres, more or less]

Parcel 2

Township 5 South, Range 96 West of the 6th P.M.

Section 32: SE $\frac{1}{4}$

Section 33: SW $\frac{1}{4}$

(remaining part of) Tax Parcel No. 213532100009 [320 acres]

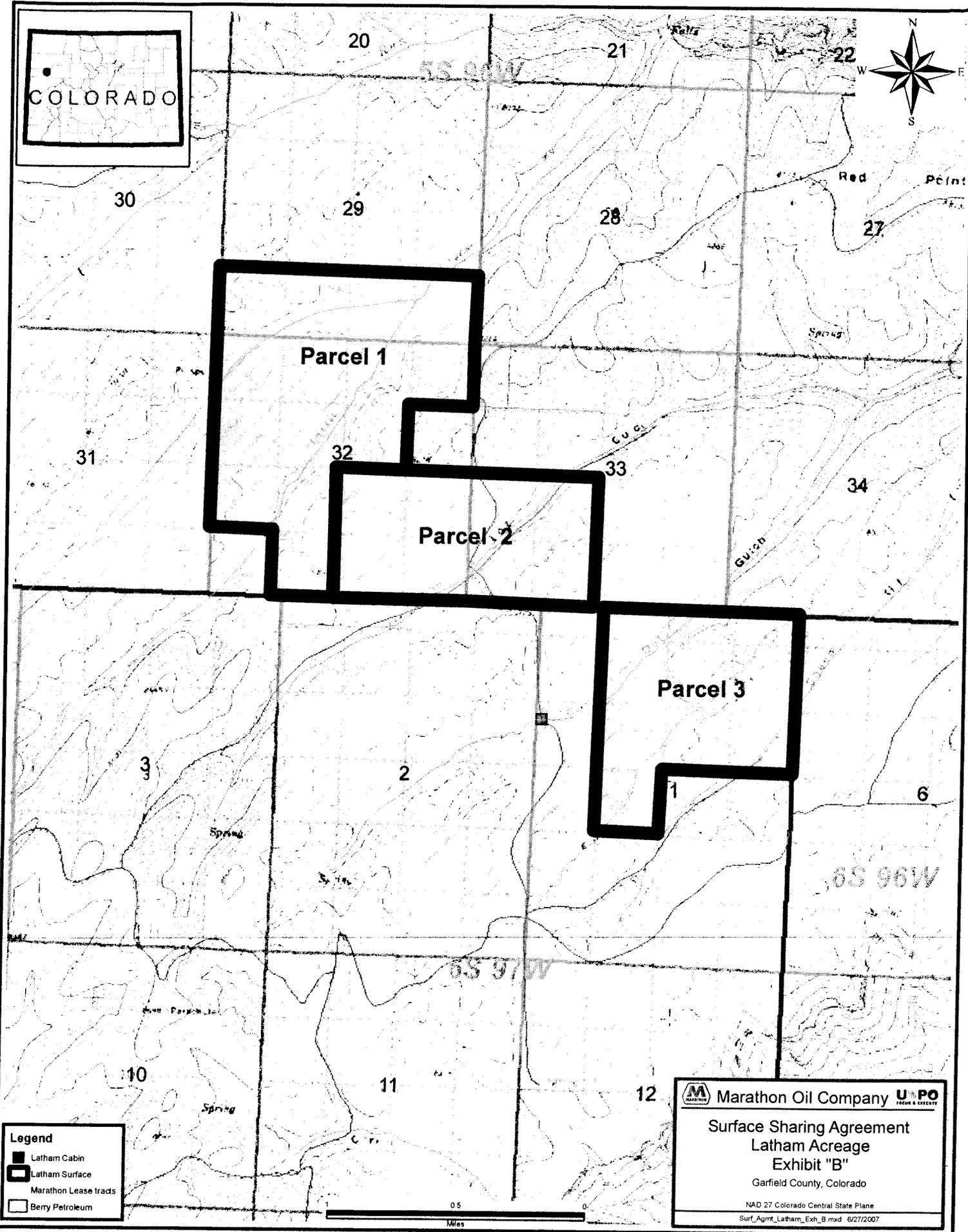
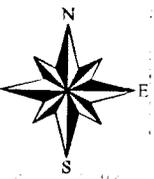
Parcel 3

Township 6 South, Range 97 West of the 6th P.M.

Section 1: Lots 10, 11, 12, 15, 17, 18, 19, 22, 23 and 24

(part of) Tax Parcel No. 216901100001 [334.78 acres, more or less]

All in the County of Garfield, State of Colorado.



Legend

- Latham Cabin
- Latham Surface
- Marathon Lease tracts
- Berry Petroleum

Marathon Oil Company **UPO**
TRADE & SERVICE

Surface Sharing Agreement
Latham Acreage
Exhibit "B"
 Garfield County, Colorado

NAD 27 Colorado Central State Plane
 Surf_Agmt_Latham_Exp_B.mxd 6/27/2007

