



Receipt #: 758784  
11/17/2008 03:44:45 PM Jean Alberico  
1 of 3 Rec Fee:\$16.00 Doc Fee:0.00 GARFIELD COUNTY CO

## **MEMORANDUM OF SURFACE DAMAGE AND RELEASE AGREEMENT**

**WHEREAS** on the date notarized as referenced below and effective the 1st day of August, 2008, **William G. Kaufman, Janette Kaufman, Donald J. Kaufman and Diana Kaufman**, (“Owner”) entered into a Surface Damage and Release Agreement with **Bill Barrett Corporation**, (“Operator”), covering the below described lands in Garfield County, Colorado (“Surface Use Agreement”).

### **Township 6 South, Range 91 West, 6th P.M.**

**SECTION 30:** That portion of Lots 1 (NWNW) and 2 (SWNW) lying South and West of County Road No. 311; and portion of Lot 3 described in Warranty Deed dated March 3, 1987, recorded in Book 706, Page 851, containing 70.75 acres, more or less in Garfield County, Colorado

### **TOWNSHIP 6 SOUTH - RANGE 92 WEST, 6TH P.M.**

**SECTION 24:** NW/4SE/4, SW/4NE/4, SESE

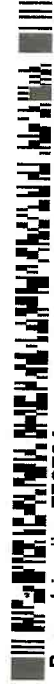
**SECTION 25:** N/2, N/2SW/4, NE/4SE/4, THAT PART OF NW/4SE/4 LYING NORTH AND WEST OF DIVIDE CREEK

**WHEREAS** said Surface Damage and Release Agreement provides for, among other things, the right to enter upon and use the Owners’ property for the purpose of accessing wellsites and related facilities and the drilling, maintaining and operating of wells and associated facilities upon the above described lands of Owner and lands adjacent thereto. Said Damage and Release Agreement sets forth payment of specific amounts to cover damages resulting from the construction, use and maintenance of the well site location(s). Said Surface Use Agreement, with all of its terms, conditions, covenants and other provisions, is referred to and incorporated into this Memorandum for all purposes; and,

**WHEREAS**, Said Surface Use Agreement further provides that Owner has waived all thirty (30) day notices as required by the COGCC for ensuing APDs and as may be required under consultation provisions of the COGCC Rule 305 and 306; and,

**WHEREAS**, Said Surface Use Agreement further provides that Owner has waived the pad restriction of COGCC Order Numbers 191-8 and 191-10 for the purpose of allowing a maximum of two drilling pads to be located in the NW/4 SW/4 of Section 24, T6S, R92W and the NWNW of Section 30, T6S, R91W; and,

**WHEREAS**, Owner and Operator have negotiated and agreed to the location of drilling pads as depicted on the Plan of Development Map attached hereto as Exhibit “A”. The parties also acknowledge that COGCC Order Numbers 191-8 and 191-10 the number of pads to one drilling pad per governmental quarter section of land; however, due to topographical constraints and other concerns it is necessary that two pads (or a portion thereof) be located in the NW/4 SW/4 of Section 24, T6S, R92W and the NWNW of Section 30, T6S, R91W. Therefore, Owner hereby waives the pad restriction of said order and hereby consents to the request for a variance in COGCC Order Numbers 191-8 and 191-10 for the purpose of allowing a maximum of two drilling pads in the foregoing governmental quarter quarters section of land. Should the pad locations in Exhibit “A” need to be relocated or reconfigured for any reason, OPERATOR agrees to consult with owner prior to such relocation. Owner also agrees not to request or consent to any permit-specific condition recommended or selected by the COGCC or its Director that is related to wildlife habitat or resources issues unless the permit-specific condition is both acceptable to OPERATOR and consistent with the terms of this Agreement. In the event a waiver or other letter is necessary to confirm the provisions of this paragraph, or the terms of this Agreement, Owner shall, upon the request of OPERATOR, execute and provide an appropriate letter.



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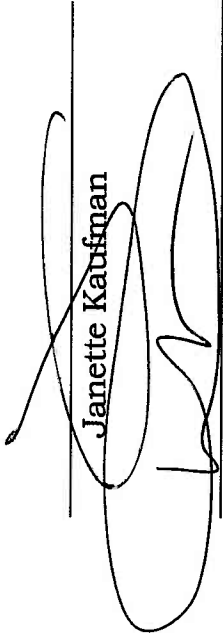
**WHEREAS**, Said Surface Use Agreement, with all of its terms, conditions, covenants and other provisions, is referred to and incorporated into this Memorandum for all purposes

**NOW THEREFORE** this Memorandum is placed of record for the purpose of giving notice of the Surface Damage and Release Agreement.

**Owner:**

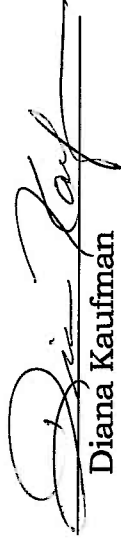


William G. Kaufman



Janette Kaufman


Donald J. Kaufman



Diana Kaufman

**Operator:**

Bill Barrett Corporation

By:   
Huntington T. Walker  
Senior Vice-President - Land

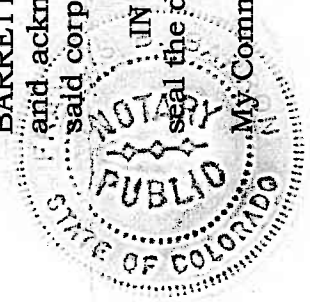


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**ACKNOWLEDGEMENTS  
 TO  
 MEMORANDUM OF SURFACE DAMAGE AND RELEASE AGREEMENT**

**STATE OF COLORADO** }  
**COUNTY OF DENVER** } SS

On this 7th day of October, 2008, before me personally appeared Huntington T. Walker, known to me to be the Senior Vice President - Land for BILL BARRETT CORPORATION and that he executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.



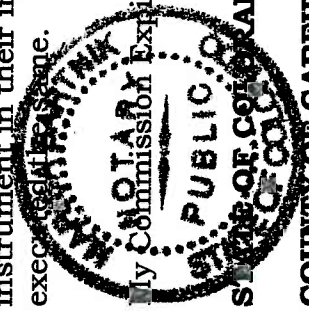
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]  
 Notary Public

My Commission Expires: 9/12/2010

**STATE OF COLORADO** }  
**COUNTY OF GARFIELD** } SS

On this 8 day of October, 2008, before me, a Notary public in and for said State and County, personally appeared William G. Kaufman and Janette Kaufman, known to me and being the same parties who executed the above instrument in their individual capacity and acknowledged to me that such corporation executed the same.



[Signature]  
 Notary Public

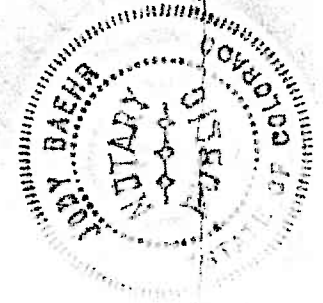
My Commission Expires 03/23/09

**STATE OF COLORADO** }  
**COUNTY OF GARFIELD** } SS

On this 8 day of October, 2008, before me, a Notary public in and for said State and County, personally appeared Donald J. Kaufman and Diana Kaufman, known to me and being the same parties who executed the above instrument in their individual capacity and acknowledged to me that such corporation executed the same.

[Signature]  
 Notary Public

My Commission Expires 7-23-2009



**After document is recorded please return to:**  
 Bill Barrett Corporation  
 Attn: Cindy Sandell  
 1099 18th Street, Suite 2300, Denver, CO 80202