

SURFACE USE AGREEMENT

THIS SURFACE USE AGREEMENT ("Agreement") is made and entered into this 1st day of May, 2010, by and between Rubicon Oil & Gas, LLC, a Texas limited liability company with an address of 508 West Wall, Suite 500, Midland, Texas 79701 ("Rubicon") and Thomas Ranch LLC, a Colorado Limited Liability Company, whose address is 7900 WCR 120, Carr, CO 80612 ("Surface Owner").

WHEREAS, Owner represents that they are the surface owners and in possession of an interest in part or all of the surface estate for the following described lands in Weld County, Colorado, said land herein called "Lands", to wit;

TOWNSHIP 10 NORTH, RANGE 67 WEST, 6th P.M.

Section 9: W $\frac{1}{2}$

Section 16: NW $\frac{1}{4}$ NW $\frac{1}{4}$

WHEREAS, Owner recognizes that Rubicon has the right to conduct operations on the Lands pursuant to Oil & Gas Lease covering Lands and Owner and Rubicon desire to minimize any surface damage to the Lands and to reach an agreement regarding such surface damage;

NOW, THEREFORE, in consideration of the ten dollars and other valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Rubicon agree as follows:

1. Payment to Owner. Prior to commencement of drilling operations on the Lands, Rubicon shall pay Owner an agreed upon sum of money as full settlement and satisfaction of all damages growing out of, incident to, or in connection with the usual and customary exploration, drilling, completion, deepening, refracing, recompletion, reworking, equipping and production operations, unless otherwise specifically provided herein.
 - A. Rubicon shall for the proposed wellsite as shown in Exhibit "A" ("Wellsite"), attached hereto be located on the Lands in which the Owner owns the entire surface estate, together with any lands used for road purposes, production facilities, pipelines, flowlines or other necessary facilities in connection with the wellsite.
 - B. If by reasons directly resulting from the operations of Rubicon, there is damage to real or personal property upon the Lands which is not associated with usual and customary operations, including, but not limited to, damages to livestock, structures, buildings, fences, culverts, cement ditches, irrigation systems, and natural water ways, such damages will be repaired or replaced by Rubicon, or Rubicon will pay reasonable compensation to Owners for such additional actual damage or an amount equal to the reasonable costs to repair such actual damages.
 - C. Owner agrees to notify any surface tenant that may be affected by Rubicon's operations on the Land and Owner may allocate the payments made hereunder with such surface tenant as they shall mutually determine between themselves and Rubicon shall have no liability therefore.

2. Consultation. If requested by Owner, prior to heavy equipment operations on each wellsite, Rubicon's representative will meet and consult with Owner (or Owner's representative) as to the location of the wellsite, access road, electric utility lines, flowlines, tank batteries and other associated production facilities. The wellsite will be fenced with a temporary three strand, barbed wire fence during drilling operations.
3. Rubicon Obligations. In conducting operations on the Lands, Rubicon shall:
- A. Locate the wellsite for the Pawnee 10-67-16-1 Well, access road, electric utility lines, flowlines, tank batteries and other associated production facilities as depicted on Exhibit "A" attached hereto and by this reference made a part of this agreement.
 - B. Limit the size of each wellsite to approximately 325 feet by 325 feet during any drilling, completion, recompletion or workover operations and shall be no more than a $\frac{3}{4}$ acre size during other periods. The area required for any tank battery location associated with each well shall be limited to approximately three fourths ($\frac{3}{4}$) of an acre in size upon completion of construction. Access roads shall be limited to approximately 30 feet in width during drilling, completion, deepening, refracing, recompletion, reworking, equipping and production operations. The permanent access roads to the wellhead and tank battery location shall be limited to 15 feet in width.
 - C. If, by reason of Rubicon's operations on the Property, there is damage in excess of the damage caused by the normal, reasonable use of the of the Surface of the Property by Rubicon for its oil and gas operations, Rubicon shall be liable to Surface Owner and its successors and assigns, as the case may be, for such damage, provided, however, Rubicon shall not be liable for any such damage caused by the negligence or willful misconduct of Surface Owner and his successors and assigns. In addition, Rubicon shall indemnify and hold harmless Surface Owner and its successors and assigns from all claims asserted against them by any third party, whether for bodily injury, property damage or otherwise, arising directly by reason of Rubicon's operations, if such claims are the result negligence on the part of Rubicon in the exploration, drilling, re-drilling, testing, development, completion, recompletion, reworking, deepening, re-entry, fracturing, refracturing, stimulation, production and maintenance operations on the Property, provided, however, Rubicon shall not be liable for such third party claims arising directly or indirectly from the negligence or willful misconduct of Surface Owner.
 - D. Use of reasonable effort to keep the well, Lands and production facilities free of weeds and debris.
 - E. With the prior written consent of Rubicon, which consent will not be unreasonably withheld, Surface Owner may install and maintain ground cover, landscaping and watering systems ("Landscaping") within the Wellsite Area at its own expense and risk, acknowledging that Rubicon's normal operation may from time to time disturb or destroy said installed Landscaping. Surface Owner hereby

agrees to install and maintain said Landscaping in such a way as to not violate COGCC regulations or impede Rubicon's access and/or operations. Surface Owner hereby accepts all responsibility for cost of installation, repair and/or replacement of said Landscaping within the Wellsite Area, and Rubicon shall not be responsible for damage to said Landscaping resulting from its future access or operations. Prior to commencing installation of the Landscaping, Surface Owner shall consult with and obtain written approval from Rubicon to ensure that there are no adverse impacts upon Rubicon's ability to perform future operations, which consent shall not be unreasonably withheld. Rubicon's consent to the installation of such Landscaping shall not constitute nor be construed as a waiver of Rubicon's rights pursuant to this Paragraph 3.

- F. If a well capable of commercial production is obtained and upon a final reclamation of the areas outside the agreed upon permanent wellsite, tank battery area and access road, it is agreed that Rubicon will install a 3 wire, barbed wire fence around the wellsite. Additionally a cattle guard will be added at the well site entrance.
 - G. Reimburse Surface Owner for any costs, expenses, losses or penalties to Surface Owner resulting from Rubicon's operations on any portion of the affected lands. Upon non-use of any portion of the lands use for drilling operations Rubicon agrees to restore and reseed the surface of the lands. Reseeding is to be performed with the seed mix approved by Surface Owner being _____.
 - H. Rubicon may not hunt, fish, or bring firearms, alcoholic beverages or illegal drugs on the surface area.
 - I. Access road is to be constructed at ground level with access off of either side of the road at any point, unless approved by Surface Owner.
4. Waiver of Thirty Day Notice. Owner hereby waives the minimum thirty day written notice requirement described in the Notice letter provided by Rubicon to Owner when it initially gave notice of its intent to drill on the Lands.
5. Successors and Assigns. When Rubicon is used in this Agreement, it shall also mean the successors and assigns of Rubicon, as well as its employees and officers, agents, affiliates, contractors, subcontractors and/or purchasers. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of owner and Rubicon and may be executed in counterparts.
6. Confidentiality. Owner agrees to keep the amount of consideration paid hereunder by Rubicon confidential and shall not disclose such information without the advance written consent from Rubicon.
7. Governing law/Venue. This Agreement shall be interpreted according to the laws of the State of Colorado. Venue for any dispute shall be Weld County, Colorado.

8. Written Modifications/Notices. This Agreement may only be amended in writing signed by both parties. All notices to either party shall be in writing addresses to the parties at the address first set forth above.

AGREED TO AND ACCEPTED AS OF THE DATE FIRST WRITTEN ABOVE.

Rubicon Oil & Gas, LLC

By: WR

Thomas Ranch LLC, a Colorado Limited Liability Company

By: Larry E. Thomas

Larry E. Thomas - Manager

STATE OF TEXAS)
) ss.
COUNTY OF Midland)

The foregoing instrument was acknowledged before me this 10th day of May, 2010, by W. Brett Smith as President of Rubicon Oil and Gas, LLC, on behalf of said company.



Cathy J. Pearce
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF Weld)

The foregoing instrument was acknowledged before me this 1st day of May, 2010, by Larry E. Thomas as Manager of Thomas Ranch LLC, on behalf of said company.

My commission expires: 6-5-10

Mathew McRobbie
Notary Public

