

# **SURFACE AND DAMAGE AGREEMENT**

(With Receipt and Release)

THIS AGREEMENT made and entered into this 1st day of June, 2011, by and between, Merle O. Gardner Trust, Hazel M. Gardner Trust c/o Hazel Gardner as owner of the surface of the SW/4 of Section 17, Township 2 North, Range 46 West, Yuma County, Colorado, hereinafter referred to as "Owner", and Augustus Energy Partners, LLC., hereinafter referred to as "AEP".

**For and in consideration of One Dollar (\$ 1.00) and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged as payment, settlement, satisfaction, and discharge of any and all claims against AEP, its agents, employees, and contractors for any and all detriment, injuries, and damages of whatsoever nature and character growing out of, incident to, or in connection with the reasonable and customary performance in the drilling, completing, equipping and production of the following "Well", or plugging and abandoning same as a dry hole , and all related operations in preparing the Well for production or abandonment ("Operations"):**

Well Name(s): Gardner Trust 13-17 2N46W NWSW/4  
Gardner Trust 14-17 2N46W SWSW/4  
Gardner Trust 23-17 2N46W NESW/4  
Gardner Trust 24-17 2N46W SESW/4

especially including, but not limited to, injury or damage to growing crops as a result of the Operations, access to the Well, and occupancy of the well site and related production facilities.

Owner hereby gives, grants, and conveys unto AEP, its agents, employees, and contractors, a right to use Owner's property for all purposes necessary for AEP to perform the Operations and all rights incident and appurtenant thereto, including but not limited to, the right to install and operate flowlines, product pipelines and tanks with the rights of unimpeded ingress and egress across Owner's lands to the Well and related production facilities described above.

Payment hereunder shall compensate Owner only for damages to Owner's land and growing crops. In the event of additional damages, including without limitation, damages to buildings, fences, gates, and livestock tanks, livestock, and other extraordinary losses or damages caused by AEP, its agents, employees, and consultants to Owner's property, or to the property of Owner's surface lessee, if any, AEP agrees to compensate Owner promptly for same on mutually agreeable terms.

Owner shall have the responsibility of notifying any affected tenant, lessee or other party who may own or have an interest in any crops or surface improvements which could be affected by AEP's proposed Operations. Owner agrees that all damages claimed by a surface tenant, lessee or other party having an interest, resulting from AEP's Operations shall be settled by Owner and Owner shall indemnify and hold AEP harmless against any claims resulting there from.

AEP agrees to perform all necessary reclamation work so the land affected by its Operations is restored as nearly as possible to its condition as existed immediately prior to AEP's Operations, excepting any crops thereon.

Concerning any matter relating to AEP's proposed Operations, Owner may contact:

Operator:	Augustus Energy Partners, LLC
Person(s) to Contact:	
Operations	Mr. Blain Sharp
Land	Mr. Gary Timmer
Address:	36695 Highway 385
	P.O. Box 250
	Wray, CO 80758
Phone:	970 332-3585
FAX:	970 332-3587

Commencement of AEP's Operations with heavy equipment is estimated to begin on 4<sup>th</sup> qtr 2011 or as soon as crops are out. Owner acknowledges that it has been given notice by AEP of its proposed Operations at least thirty (30) days [or if the well is to be drilled on irrigated crop lands between March 1 and October 31 at least 14 days] prior to AEP's estimated commencement date or hereby waives such thirty (30) day, or fourteen (14) day, requirement. Provided herewith is a brochure from the Colorado Oil and Gas Conservation Commission, 1120 Lincoln Street, Suite 801, Denver, Colorado 80203, which describes the rights and responsibilities of Owner as the surface owner. The brochure includes an on-site inspection form to be used should AEP and Owner be unable to reach an agreement.

As of the date of this agreement, the land use of the proposed well location and the lands contiguous thereto is irrigated crop. It is anticipated the future use of the lands contiguous to the proposed well location will be:

- ☒ Same as current use
- ☐ Reforestation
- ☐ Recreational
- ☐ Wild life habitat

Owner acknowledges that it has consulted with AEP as to the location of roads and the necessary production facilities, including flowlines, product pipelines and tanks and the location and size of the wellsite for the above described well, or hereby waives such consultation requirements. Owner also acknowledges that Owner had an opportunity to comment to AEP regarding preferences for the timing of the Operations and preferred locations for the Well and associated facilities. Owner has requested that all consultations be conducted directly with Owner.

In consideration of the mutual benefits derived hereunder, Owner hereby remises, releases, acquits and forever discharges AEP, its agents, employees, and consultants from any and every action, cause of action, suit, claim, and demand against AEP, its agents, employees, and consultants arising out of, incident to, or in connection with AEP's Operations, access to the Well and related production facilities, and occupancy thereof.

AEP hereby remises, releases, acquits and forever discharges owner and heirs from any and every action, cause of action, suit, claim, and damage against owner and heirs arising out of, incident to, or in connection with access to, or operations of the well and related production facilities.

This Agreement shall extend to and bind Owner, AEP, and their respective heirs, personal representatives, successors and assigns.

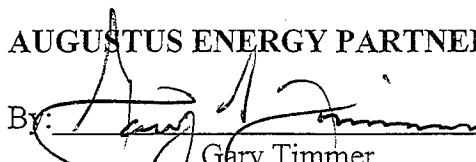
**IN WITNESS WHEREOF**, the parties have executed this Agreement on the same date as shown above.

**OWNER:**

  
Hazel M. Gardner

Address: 38501 County Road R, Eckley, CO 80727  
Telephone #: 970-359-2332

**AUGUSTUS ENERGY PARTNERS, LLC**

By:   
Gary Timmer

## ADDENDUM

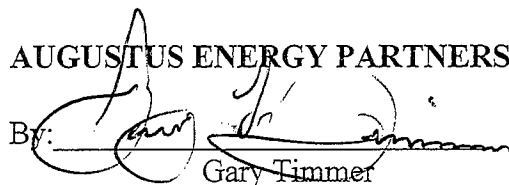
AEP agrees to comply with all applicable rules, regulations, laws and orders issued or promulgated by any court or governmental agency having jurisdiction over oil and gas operations within the State of Colorado.

It is further agreed between AEP and Owner that upon completion of the subject well herein, AEP shall use its best efforts to restore the premises to the original contour. Such restoration shall return the subject property to such a condition that it may be farmed in the same manner as it was farmed prior to entry. AEP shall also use its best efforts to complete all restoration operations within three (3) months of the completion of said well. In the event adverse weather conditions are present which would delay restoration operations, AEP shall fence the effected area and complete the reclamation as soon as conditions allow.

OWNER:

  
Hazel M. Gardner

AUGUSTUS ENERGY PARTNERS, LLC

By:   
Gary Timmer