

SURFACE USE AGREEMENT



THIS AGREEMENT is made and entered into this 27th day of July, 2002, by and between Miller Partners Ltd., 6854 WCR 37, Ft. Lupton, Colorado 80621 ("Surface Owner"), and Patina Oil & Gas Corporation, a Delaware corporation, 1625 Broadway, Suite 2000, Denver, Colorado 80202 ("Patina").

Exhibit "A" attached hereto describes one potential drillsite within the SW1/4NE1/4 of Section 31, Township 2 North, Range 65 West, 6th P.M., Weld County, Colorado (the "Property"). Patina and Surface Owner have agreed that Patina will pay Surface Owner [REDACTED] per drillsite prior to the commencement of drilling operations. No payment will be made for drillsite described if an oil and gas well is not drilled thereon. In consideration of such payment and in consideration of the covenants and obligations set forth herein, Patina and Surface Owner agree as follows:

1. Said payment constitutes the full and entire consideration to be paid by Patina for the use of the surface and all damages (except as provided in paragraph 2 hereof) to the land associated with the drilling, testing, completion, recompletion, reworking, re-entry, pumping, operation and maintenance of the drillsite located on the Property. The payment is for all damages to the Property, including, but not limited to, damages to growing crops, sod, damage to croplands, removal, transportation and care of livestock, construction of access roads, preparation and use of the drillsite area, preparation and use of reserve pits, and construction, installation, and maintenance of production equipment and facilities such as flowlines, gas pipelines, separators, tank batteries and other equipment or facilities necessary or convenient for the production, transportation and sale of oil, gas and other materials produced by or used for production of oil and/or gas from the Property. With respect to the construction, installation and maintenance of production equipment and facilities such as flowlines, gas pipelines, separators, tank batteries and other equipment or facilities necessary or convenient for the production, transportation and sale of oil, gas and other materials produced by or used for the production of the above well, Patina may exercise the rights granted by this Agreement at any time and from time to time without further or additional consideration being payable to Surface Owner.
2. If, by reason of Patina's operations, there is damage to personal property located on the Property or if there is damage to the Property caused by the negligence of Patina or an unreasonable use of the Property by Patina that is not associated with reasonable and normal drilling, testing, completion, recompletion, reworking, re-entry, pumping, production and maintenance operations, such as damage to structures, fences, culverts and cement ditches, such damage shall be repaired or replaced by Patina or Patina shall promptly pay Surface Owner for such damage.
3. With respect only to the subject matter of paragraph 1 above, Surface Owner agrees to indemnify and hold Patina harmless from all claims, demands, liability and actions against Patina by any other surface owner, surface tenant or occupant of the Property arising out of damage by Patina to the Property or growing crops thereon caused by the operations contemplated by paragraph 1 above asserted by any such other surface owner, surface tenant or occupant. Surface Owner may allocate the payments made hereunder with any surface owner, surface tenant or occupant as they shall mutually determine between themselves and Patina shall have no liability therefor.
4. As between Surface Owner and Patina, Surface Owner shall have no liability for the release or discharge by Patina, its contractors or agents, of oil, gas or any other substance on or under the Property, except as any such release or discharge is caused in whole or in part by Surface Owner, Surface Owner's tenant, licensees, invitees, or agents, and Patina will indemnify and hold Surface Owner harmless from and against all costs and expenses (including reasonable attorneys' fees) for any such release or discharge by Patina.

5. This Agreement constitutes written consent of Surface Owner for Patina to proceed with the drilling, testing, completion, recompletion, reworking, re-entry, pumping, operation and maintenance of the above-described drillsites on the Property. This Agreement also constitutes Surface Owner's written acknowledgment that Patina has complied with Rules 305b. and 305c. of the Colorado Oil and Gas Conservation Commission, Surface Owner's written waiver of the "thirty day notice", "irrigation notice", and "reclamation notice" requirements set forth in Rule 305 and Surface Owner's written acknowledgment that Patina has complied with the consultation requirements set forth in Rule 306.

6. Except as provided in paragraph 2 hereof, for cases of unreasonable surface use and/or negligence by Patina, Surface Owner, for itself, and its successors and assigns, does hereby, release, relinquish and discharge Patina, its successors and assigns from all claims, demands, damages and causes of action, past, present and future, that Surface Owner may have by reason of the occupancy of the Property and for the drilling of the wells and all other damage or injury to the Property caused by the drilling, completion, recompletion, reworking, re-entry, pumping, operation and maintenance of the wells and Surface Owner accepts the above payment as full compensation therefor.

7. This Agreement is subject to Exhibit "A" attached hereto and by this reference made a part of this Agreement.

8. This Agreement is subject to Exhibit "B" attached hereto and by this reference made a part of this Agreement.

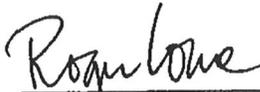
9. Surface Owner agrees to keep confidential this Agreement and all negotiations leading up to or relating to this Agreement. Surface Owner shall not copy or distribute this Agreement or disclose the substance hereof or the nature of such negotiations to others outside of Patina unless required to do so by law. Provided, however, Surface Owner will provide a copy of this Agreement to any potential successor or assign of Surface Owner prior to the closing of any sale of all or any portion of the Property.

10. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Agreed to and accepted the day and year first above written.

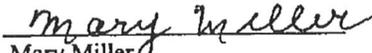
PATINA OIL & GAS CORPORATION
A Delaware corporation

By:



Roger Lowe
Landman

SURFACE OWNER
Miller Partners Ltd.



Mary Miller

Tax ID #: 207 14 118

EXHIBIT "A"

Attached to and by reference made a part of that certain Surface Use Agreement dated July 27, 2002, by and between Patina Oil & Gas Corporation, as "Patina", and Miller Partners Ltd. , as "Surface Owner", covering the following lands:

Township 2 North, Range 65 West, 6th P.M.
Section 31: SW1/4NE1/4

1. The wellsite shall be located in the SW1/4NE1/4 according to the governing regulations.
2. Consideration herein shall be for 1 (one) well.
3. The topsoil shall be removed from the area over the pits, stockpiled and held in reserve until the contour of the site is re-established. The wellsite shall be ripped and returned to original slope and contour, as is reasonably practicable, following completion operations. Following completion, recompletion, reworking and/or re-entry operations, Patina shall return the topsoil to its relative position over excavated areas and shall place any culverts necessary to practically and adequately drain the wellsite and tank battery site.
4. Rule 1003.d.(1) provides that Patina may dispose of de minimus amount of drilling fluids in the reserve pit during reclamation operations. It is agreed that the amount of drilling fluid that may remain in the reserve pit shall be that portion of the fluids that cannot be suctioned out of the pit by a pump.

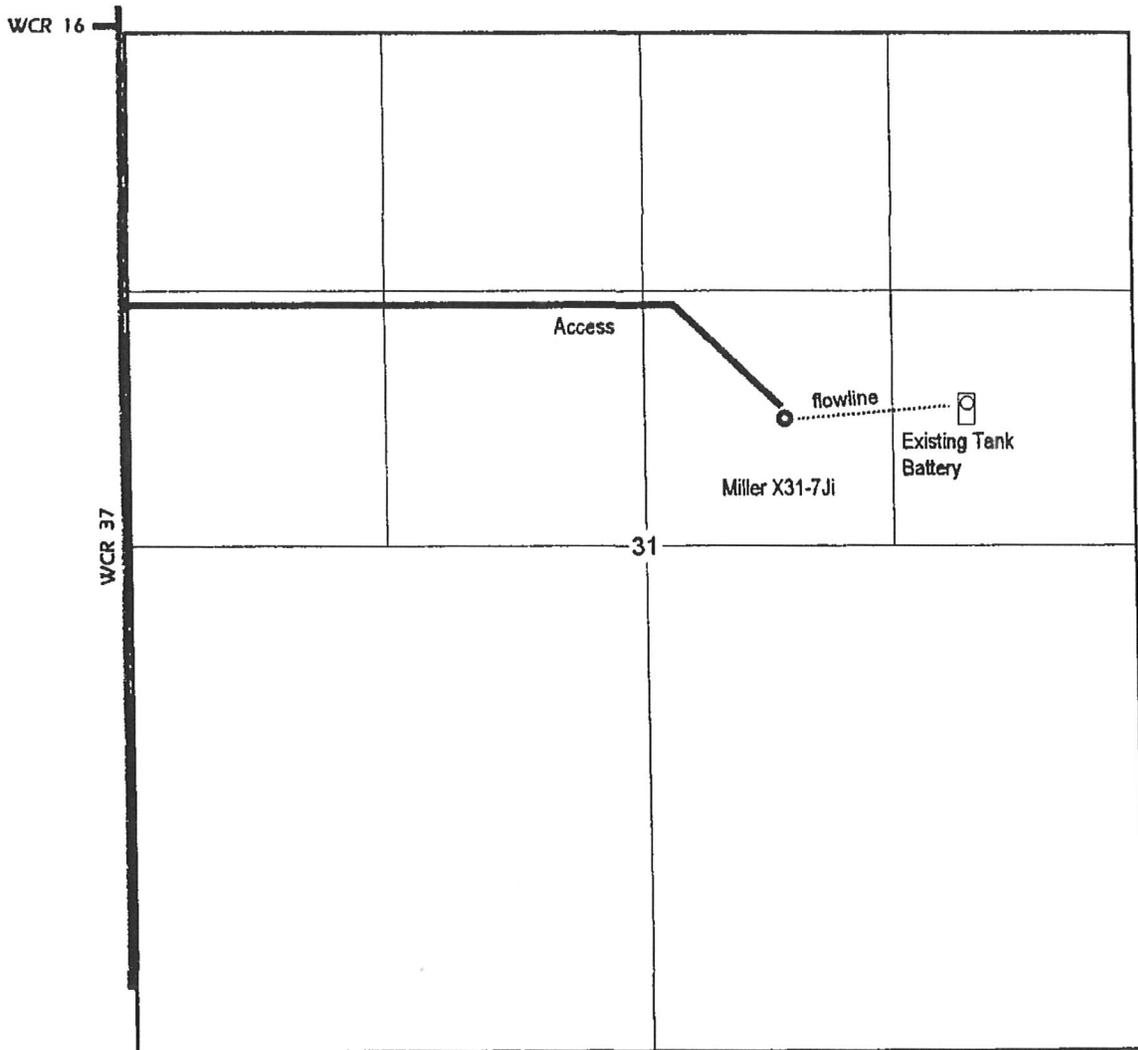
For non-cropland locations, Patina reserves the right to dispose of drilling fluids and cuttings in the reserve pit, after the pit is sufficiently dry, by backfilling the reserve pit with soils removed from the pit area.

During the two (2) year period following reserve pit closure, if additional topsoil is necessary to return the reserve pit to its original contour, Patina shall provide such topsoil to the pit area. The quality of the topsoil being returned shall be subject to the approval of Surface Owner which approval shall not be unreasonably withheld by Surface Owner. Patina and Surface Owner recognize and agree that Patina is not guaranteeing that the reserve pit area will be restored to its original contour and agricultural productivity in the absolute sense. Patina will, however, use its best efforts to restore the same to its original contour to the extent practical.
5. Patina agrees to be responsible for any alterations needed to existing fences for the purpose of drilling, testing, completing or production of the wells herein proposed.
6. Patina agrees to bury all flowlines to a depth of forty-eight (48) inches below the surface of the ground.
7. Patina agrees to pay for actual damages occurring as a result of future reworking, recompletion or re-entry operations. Future reworking, recompletion, and re-entry operations will be scheduled during the non crop season.
8. Patina is authorized to occupy a maximum of three acres for each well to be drilled on the Property. If Patina occupies more than three acres for any drillsite, it shall pay Surface Owner at the rate of Four Hundred Dollars (\$400) per additional acre, proportionately reduced.
9. In consideration of the payment provided herein, Surface Owner hereby accepts responsibility for compliance with sentences #2 and #3 of Rule 1003.e.(1) and sentence #2 and the remainder of Rule 1003.e.(2) of the Colorado Oil and Gas Conservation Commission.

EXHIBIT 'B'

Attached to and by reference made a part of that certain Surface Use Agreement dated July 27, 2002, by and between Patina Oil & Gas Corporation, as "Patina" and Miller Partners Ltd., as "Surface Owner" covering the following lands:

Township 2 North, Range 65 West, 6th P.M.
Section 31: SW1/4NE1/4



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Flowline

—————
660 feet

