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Linda Daley
Laplata County Clerk

6

SURFACE USE AGREEMENT
(Witt 34-23 GU #3 and #4)

This Surface Use Agreement ("Agreement") is effective the 20th day of October, 2008 ("Effective Date"), between Fern Thompson ("Landowner" whether one or more), with a mailing address of 20354 Vose Street, Canoga Park, CA., 91306, and BP America Production Company, a Delaware corporation, ("BP") with an office at 380 Airport Road, Durango, CO. 81303. Landowner and BP are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

Landowner owns the surface estate in a tract of land in La Plata County, Colorado, as more particularly described below ("Property").

The SE/4SW/4 of Section 23, Township 34 North, Range 8 West, N.M.P.M., less and except tract more fully described in Deed recorded at Reception No. 405410 in the office of the Clerk and Recorder, La Plata County, Colorado.

BP is the owner of certain rights in one or more oil and gas leases underlying the Property and is the operator ("Operator") of the Witt 34-23 Gas Unit ("Unit"). The Property is located within the Unit boundaries, and BP has plans to drill the Unit wells, the Witt 34-23 Gas Unit #3 and #4 ("Wells"), from a surface location on the Property.

Landowner and BP have engaged in a discussion of certain aspects of BP's plan for the drilling and operation of the Wells on the Property, and the Parties now desire to enter into this Agreement.

In consideration of \$20,000.00 paid by BP to Landowner and in consideration of the covenants contained in this Agreement, the Parties agree as follows:

A. Landowner Rights, Duties and Obligations:

1. Damage Compensation. Landowner agrees that the recited consideration constitutes full payment for all present and future surface damages that may occur to the Property as a result of BP's reasonable operations.
2. Re-Seeding of Disturbed Areas. Landowner has the right to specify the grass seed or seed mixture used by BP when reclaiming disturbed surface areas on the Property, as long as Landowner's seed request is reasonable, the grass seed or seed mixture is readily available in the area, and BP's use of the specified grass seed or seed mixture for reclamation is permitted under applicable laws, rules and regulations.
3. Landowner Use of Drillsite. Landowner agrees to not place or store any personal property or material of any kind on the Drillsite, including but not limited to placing or storing vehicles, farm equipment, hay or other crops on the Drillsite.
4. Survey Plats. Landowner has the right to receive a copy of any survey plat obtained by BP depicting the Drillsite (defined below) or any access roads, pipelines or other Well facilities.
5. Permission to Bury Synthetic Pit Liners. Landowner agrees that upon reclamation of the Drillsite, and if permitted by applicable law, BP may bury in place any synthetic drill pit liners used at the Drillsite.
6. Permission to Raise Utility Lines. Landowner hereby grants permission for La Plata Electric Association to raise utility lines on the Property when requested by BP and as reasonably necessary to access the Drillsite and to drill, complete and operate the Wells.
7. Waiver of Facility Setback Regulations. BP will comply with all applicable state and federal law pertaining to the distance setbacks between the Wells and other Well facilities, and Landowner's home and other buildings and improvements. Landowner hereby waives the right to enforce any local rules or regulations that may provide for more stringent distance setbacks than that provided by state and federal law.
8. Setback of Future Buildings from BP Well Facilities. Landowner agrees to comply with all local, state and federal laws pertaining to the distance setbacks between the Wells and Well facilities, and any future homes, buildings (including portable buildings) and other habitable structures constructed or located on the Property. Regardless of the setback distance requirements under such laws, Landowner agrees that all such future structures will be located a minimum distance of at least 150 feet away from the Wells and any of the associated wellhead equipment, lines and similar facilities, whether or not such facilities lie on the surface or below ground.
9. Colorado Waiver of Notice and Consultation. In accordance with sections 305.f and 306.d of the Rules and Regulations ("Rules") of the Colorado Oil and Gas Conservation Commission ("COGCC"), Landowner waives the right to receive the Notice of Drilling set forth in COGCC Rule 305.b(1), and Landowner further waives the right to the Drilling Consultation set forth in COGCC Rule 306.a. Landowner acknowledges the receipt from BP of the information brochure for surface owners described in COGCC Rule 305.c(6). Landowner acknowledges and agrees that BP has complied with all notice and consultation requirements of COGCC Rules 305 and 306.

Rtn To: BP/Gabel
185 Suttle Street
Durango, CO 81301

Landowner Initials: F.T.

C-195672

10. Landowner Use of Property. Landowner expressly acknowledges that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligation of BP to accommodate Landowner's use of the surface of the Property, existing or future, and Landowner waives any statutory or common law claims to the contrary.

B. BP Rights, Duties and Obligations:

1. Drillsite. BP will use only as much of the surface of the Property as is reasonably necessary for operation of the Wells and associated facilities. BP estimates that the surface area that will actually be disturbed for the drill site of the Wells ("Drillsite") will be approximately 2.4 acres which shall include the existing drill site of the *Witt 34-23 Gas Unit #2* and the additional expected total disturbed area for the Wells.
2. Excess Material. BP may store material (soil, dirt and gravel) excavated from the Drillsite on the Drillsite for reclamation of the Drillsite. BP may also import material from off of the Property as necessary for construction and reclamation of the Drillsite. After constructing the Drillsite should BP determine that there is material in excess of what is required for reclamation and can reasonably be stored on the Drillsite, then BP may deliver said excess material to a location on the Property that is mutually acceptable to BP and Landowner. Should a mutually acceptable location on the Property not be found, then BP may remove such excess material from the Property; provided that BP shall make a reasonable attempt to minimize the amount of excess material that it removes from the Property.
3. Firewood. Should BP cut down or trim any trees on the Property during its operations and should Landowner so desire, BP will cut wood greater than 4 inches in diameter into firewood lengths ranging from 12 to 18 inches in length and place such firewood in a pile (not stacked) just off of the Drillsite, road or pipeline route, as the case may be, for Landowner's use. All wood less than 4 inches in diameter will be chipped and spread on the Drillsite, road or pipeline route, as the case may be. Firewood will not in any case be split for the landowner. Any such wood not requested to be cut into firewood by Landowner will be buried or chipped and spread on the Drillsite, road or pipeline route, as the case may be.
4. Surveys. BP may obtain one or more surveys of the Drillsite and other Well facilities. BP will provide Landowner with a copy of the surveyor's plat as soon as reasonably possible after completion of each survey.
5. Recording of Agreement. BP may record this Agreement in the records of La Plata County, Colorado. BP may also, in its sole discretion and without the joinder of Landowner, execute and record from time to time written declarations with accompanying survey plats, and any amendments to same, for the purpose of locating and describing the Drillsite, access roads, pipelines and other Well facilities. The recording of such declarations, and any amendments, will serve for all purposes to locate and describe the Drillsite, access roads, pipelines or other referenced Well facilities.
6. Maintenance and Repair of Access Roads. BP will reasonably maintain any roads that may be used by BP on the Property, including any new roads that may be constructed by BP, and will make all necessary repairs to the roads caused by BP's use. However, BP will not be required to snow plow or otherwise clear any road of snow.
7. Burial of Pipelines. BP will, to the extent reasonably practicable, bury all water and gas pipelines to a minimum depth of 36 inches below the surface.
8. Noise Abatement. BP will comply with Colorado Oil and Gas Conservation Commission Rule 802 concerning noise abatement and will install sound walls, mufflers and/or other devices, if necessary under the rule.
9. Well Equipment. BP will make a reasonable effort to keep to a minimum the amount of Well equipment installed at the Drillsite.
10. Pits, Burial of Synthetic Liners. BP, in its discretion, may use synthetic liners for any Well pits used at the Drillsite. Upon reclamation of the Drillsite, and if permitted by applicable law, BP may bury in place any synthetic drill pit liners used by BP at the Drillsite.
11. Reclamation.
 - a. Initial Construction. After the drilling and completion of the Wells, and the construction of any associated facilities such as the well pad, access roads and pipelines, those areas of land that BP will not use for continuing production operations will be reclaimed. The areas to be reclaimed include the pipeline surface disturbance area and the well pad surface disturbance area outside of the areas that will be used for ongoing Well operations. Reclamation will consist of filling all drilling pits, grading disturbed areas, and seeding with a readily available grass seed mixture reasonably requested by Landowner. Reclamation will be performed within a reasonable amount of time after completion of the Wells or construction of any associated facilities, recognizing practical limitations of weather and season. Seeding will be performed with an appropriate mixture of broadcast and drill methods, but BP does not guaranty seed germination. All mitigation and reclamation activities by BP on the Property will conform to applicable laws, rules and regulations.
 - b. Subsequent Surface Disturbance. All subsequent disturbances by BP to areas reclaimed under the preceding paragraph will be similarly reclaimed by BP within a reasonable amount of time,

Landowner Initials: *F.T.*

recognizing practical limitations of weather and season. BP will make a reasonable attempt to notify Landowner in advance of any significant subsequent disturbance activities on the Property; including but not limited to, Well servicing, Well re-drill, and pipeline repairs; with the exception of emergency repairs.

- c. Final Abandonment. After cessation of all production from the Wells and any future wells located in whole or in part on the Drillsite, all areas disturbed by BP will be reclaimed by BP in accordance with applicable laws, rules and regulations.
12. Indemnification. BP agrees to indemnify, defend and hold Landowner harmless from and against any and all expenses, losses or damages resulting from or relating to BP's operation and maintenance of the Wells and associated facilities such as the well pad, access roads and pipeline; provided, however, BP will not indemnify, defend and hold Landowner harmless from such expenses, losses or damages to the extent resulting from or relating to the negligence or willful misconduct of Landowner or Landowner's employees, contractors, guests or invitees.
13. Compliance with the Law. BP will comply with all applicable laws, rules and regulations.

C. General Provisions:

1. Term. This Agreement is effective as of the Effective Date and will continue until all oil and gas leases underlying the Unit expire and production from the Wells and any additional wells producing from the Unit have permanently ceased and are permanently plugged and abandoned. After expiration, BP will have a reasonable period of time within which to remove all Well equipment and facilities from the Property.
2. No Waiver of Other Rights. With the exception of those duties and obligations that each Party has specifically agreed to assume and perform in this Agreement, and the rights specifically granted to, waived or relinquished by a Party in this Agreement, this Agreement will not be construed to waive or relinquish any Party's legal rights in, to or under the Property, including but not limited to rights of ingress or egress, access or other reasonable surface use, now owned or hereafter acquired by a Party under any oil and gas lease or other agreement or instrument pertaining to the Property. Nor does this Agreement, subject to the foregoing exceptions, waive the rights of either Party under any applicable laws, rules or regulations pertaining to the Property.
3. No Application to Other Wells. The rights, duties and obligations of the Parties in this Agreement pertain only to the Wells. This Agreement is not intended to, and will not be interpreted to, apply to any other well that may now be located or hereafter be drilled within the Unit, whether or not located on the Property. Each Party retains all of their legal rights with respect to such other well or wells, including but not limited to those legal rights referenced in the preceding paragraph.
4. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the Parties and their respective heirs, successors and assigns. In addition, BP and its successor Well Operator may assign this Agreement to successive Operators of the Wells. Assignment of this Agreement by either Party will act to terminate the assigning Party's duties, obligations and liabilities under this Agreement from and after the date that the non-assigning Party receives a true copy of the assignment, with the exception of any indemnity or monetary obligations accruing prior to such date.
5. Applicable Law. This Agreement will be interpreted under the laws of the state of Colorado.
6. Entire Agreement. This Agreement contains the final agreement of the Parties as to the matters addressed, and supersedes any and all prior oral or written negotiations, understandings and agreements. This Agreement may not be modified unless the modification is in writing and is signed by Landowner and an authorized representative of BP.
7. Further Assurance. The Parties agree, at any time and from time to time, upon the reasonable request of either Party and without additional consideration, to take or do all such further acts and things, and furnish and deliver all such further documentation and material (including any document or instrument requested by local, state or federal authorities) which, in the opinion of the requesting Party, may be necessary or useful in carrying out the purposes of this Agreement.
8. This Agreement is subject to the terms of a Side Letter Agreement ("SLA") NONE, by and between Landowner and BP. (OPTIONAL)

Landowner Initials: F.T.

This Agreement is executed by the Parties on the dates appearing in the acknowledgements below, but this Agreement is effective as of the Effective Date.

Landowner

Fern Thompson

Fern Thompson

BP America Production Company

By: Debra Bacon

Debra Bacon, Attorney-in-Fact for BP

rk

STATE OF COLORADO)

) ss.

COUNTY OF LA PLATA)

SUBSCRIBED AND SWORN TO before me this 20TH day of OCTOBER, 2008,
by Debra Bacon, Attorney-in-Fact for BP America Production Company, a Delaware Corporation.

David L. Gabel, Notary Public
State of Colorado
My Commission Expires 7/21/2011

My commission expires: 7-21-2011

[Signature]
Notary Public

STATE OF CALIFORNIA)

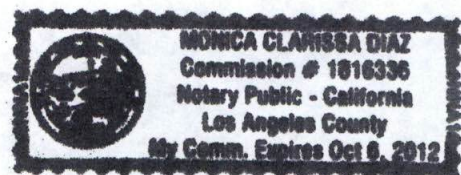
) ss.

COUNTY OF Los Angeles)

SUBSCRIBED AND SWORN TO before me this 20 day of October, 2008,
by Fern Thompson.

My commission expires: October 6, 2012

[Signature]
Notary Public



Landowner Initials: F.T.

WITT GU 34-23 2 3 & 4

NEIL, E PERRY & GEORGIANNA

150' Setback
from property line

WITT GU 34-23 #3

WITT GU 34-23 #4

WITT GU 34-23 #2

WITT FAMILY TRUST NO 2

95 BBL Sump Separator

THOMPSON, FERN

4" ST 6" ST

Legend

- PAD
- Road Pipe ROW 50ft
- REC
- TUA



9/25/08

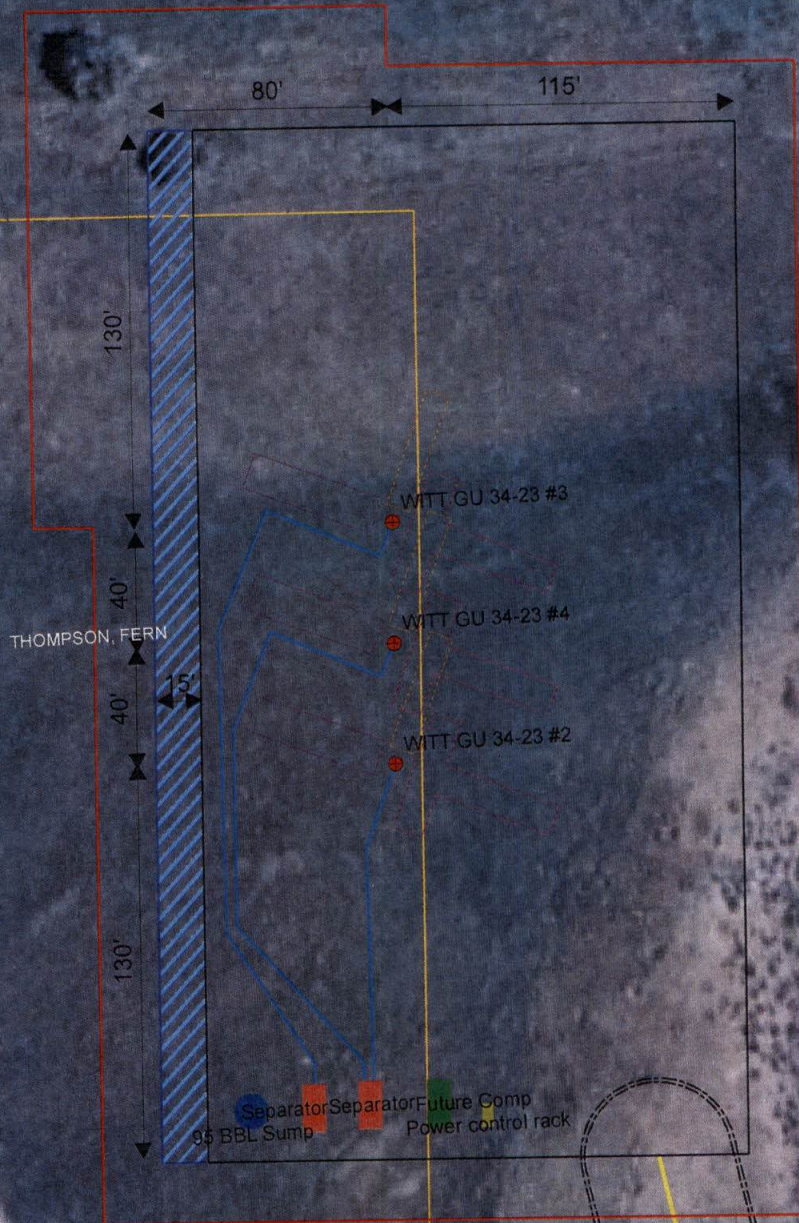
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0 40 80 160 240 320 Feet

DISCLAIMER: This general arrangement drawing (GAD) has been generated for a preliminary discussion of a proposed access road, pipeline, dilliste or other type of facility. The location and arrangement thereof are approximate and subject to change at any time, whether due to on-the-ground surveys, regulatory requirements or (without limitation) other factors. Reclamation plans do not reflect cut and fill slopes and are subject to change as data is acquired. This GAD is confidential and its duplication or distribution requires written permission from BP America Production Company.

WITT GU 34-23 2 3 & 4

150' Setback
from property line



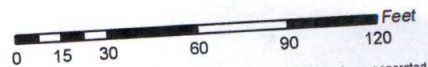
WITT FAMILY TRUST NO 2

9/25/08

1:720

Legend

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