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Linda Daley  
Laplata County Clerk**SURFACE USE AGREEMENT  
(Witt Gas Unit 34-23)**

THIS SURFACE USE AGREEMENT is made this 4<sup>th</sup> day of MAY, 2005 by and between BP America Production Company ("BP"), a Delaware Corporation, with an office at 380 Airport Road, Durango, CO 81303, and FERN THOMPSON ("Landowner"), with an address at 20354 Vose Street, Canoga Park, California, 91306.

\* **WHEREAS**, Landowner owns 100% of the surface of a tract of land as more particularly described as the SE 1/4 SW1/4 of Section 23, Township 34 North, Range 8 West, N.M.P.M., and which is located in La Plata County, Colorado (hereinafter the "Property"); and

**WHEREAS**, BP is the owner of oil and gas leasehold interests underlying or pertaining to the Property and is the operator with respect thereto; and

**WHEREAS**, the parties have reached an agreement regarding BP's use of the Property related to oil and gas development thereon for the purpose of drilling a well from a surface location on the Property;

**NOW, THEREFORE**, based on the above premises and mutual covenants contained herein, the parties agree as follows:

1. **Consideration.** Prior to commencing site preparation for the drilling of any well on the Property, BP shall pay Landowner the sum of ~~\$10,000~~, and any other good and valuable consideration that has been agreed upon in writing with respect to the use of the Property. This payment is for all damages to the Property from BP's reasonable use thereof.
2. **Drillsite.** BP shall only use such portions of the Property as are reasonably necessary, however, the surface area actually disturbed for the drillsite shall be approximately 1.7 acres. **It is agreed that Landowner shall not use any portion of the drillsite for any purpose whatsoever.** Subject to approval of the Colorado Oil And Gas Conservation Commission ("COGCC"), the drillsite shall be as shown on the well location plat attached as Exhibit "A". BP shall have the full and complete use of the original drillsite (approximately 1.7 acres) for future operations.
3. **Access Road.** BP has the right to construct and maintain a graveled access road. BP will make reasonable efforts to minimize the access road impact to Landowner.
4. **Pipeline Tie-in.** BP will install water and gas pipelines and associated above ground appurtenances as needed. Such pipelines shall, to the extent practicable, be buried to a minimum depth of 36 inches below the surface.
5. **Noise Abatement.** BP will comply with COGCC Rule 802 concerning Noise Abatement and shall install sound walls, mufflers and/or other devices, if necessary.
6. **Equipment.** BP will make reasonable efforts to minimize the impact of all equipment associated with the well. BP shall have the right to lay an electric line, or lines, for its operations.
7. **Pits.** BP, in its discretion, may use synthetic liners for any pits utilized, however, BP must bury said liners upon final reclamation of the site.

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8. **Reclamation.**

- A. **Initial Construction.** After the initial construction of a new well (including, but not limited to, the construction of road access, pipelines, wellpad, well drilling and well completion), those areas of land not to be used for ongoing production operations will be reclaimed. These areas to be reclaimed include the pipeline surface disturbance and the wellpad surface disturbance outside ongoing production use area. Reclamation shall consist of filling all drilling pits, grading disturbed areas and seeding with a readily available seed mixture specified by Landowner. Reclamation shall be performed in a reasonable amount of time after initial construction, recognizing practical limitations of weather and season. Seeding shall be performed with an appropriate mixture of broadcast and drill methods with no guaranty by BP as to seed germination. However, all mitigation shall conform to all COGCC rules and regulations.
- B. **Subsequent Surface Disturbance.** All subsequent disturbances to areas reclaimed under 8.A. herein shall also be reclaimed by BP within a reasonable amount of time, recognizing practical limitations of weather and season. BP shall make a reasonable effort to notify Landowner of such subsequent disturbances; including but not limited to, well servicing, well re-drill, or pipeline repairs, within 15-days of such activity; with the exception of emergency repairs. BP shall have full and complete use and access to the original approximately 1.7 acre drillsite at all times.
- C. **Final Abandonment.** After cessation of all production on the lease, all disturbed areas will be reclaimed by BP in accordance with COGCC Rules 1003 and 1004.

9. **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 well, equipment, road and gathering pipelines and related operations and activities on the property, provided, however, BP does not indemnify Landowner for expenses, losses or damages resulting in whole or in part from Landowner's conduct on the Property.
10. **Term.** This Agreement shall be effective as of the above date and shall continue until the underlying oil and gas lease expires. After lease expiration, BP shall have a reasonable period of time within which to remove all facilities and fixtures.
11. **Compliance with the Law.** BP shall comply with all applicable county, state and federal laws and regulations.
12. **Heirs/Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors and assigns.
13. **Recording.** Either party shall have the right to record this Agreement in the records of La Plata County, Colorado, and shall have the further right, but not the obligation, to record from time to time any "as-built" plats that may be drawn approximately depicting and identifying the location of the access road, pipelines and the drillsite on the Property. Upon so recording, each such plat shall be deemed to be an amendment to this Agreement and incorporated herein.
14. **No Waiver of Rights.** This Agreement or even the willingness to consider executing this Agreement will not be construed as a waiver of any rights of ingress or egress, access or other reasonable use of the surface that BP has under any oil and gas lease or other agreement or under any local, state or federal laws, rules or regulations, pertaining to the Property. This Agreement is



intended to avoid any issue or question as to the use of the Property but is not a waiver of other contractual or legal rights in the event this Agreement is deemed unenforceable for any reason. In the event BP decides, in its sole opinion, that it is necessary, or is required by law to utilize a location different from the agreed upon location for the wellpad, access road or pipeline, BP will notify Landowner and attempt to negotiate an appropriate amendment to this Agreement. In the event mutual agreement on such an amendment can not be reached in the sole opinion of either party, both parties, again, reserve their rights under all existing leases, contracts, laws, rules and regulations regarding the ingress or egress, access and other reasonable use of the surface of the Property.

15. **Entire Agreement.** This Agreement is the final agreement between the parties and supersedes any and all prior oral agreements regarding surface use related to the well and facilities and improvements described herein. Except as provided in paragraph 13 above, this Agreement shall not be amended except in writing signed by both parties.
16. **Applicable Law.** This Agreement shall be interpreted under the laws of the state of Colorado.
17. **Notice.** Owner hereby waives the thirty (30) day notification prior to commencement of drilling operations as required by Rule 305.b of the COGCC rules and has received the brochure, "Information for Oil and Gas Operators, Surface Owners and Surface Tenants," as per COGCC Rule 305.c.(6).
18. **Consultation.** Landowner hereby waives the consultation requirement as required by Rule 306 of the COGCC rules.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

X Fern Thompson  
Fern Thompson

BP America Production Company

By: G. Scott Thompson  
G. Scott Thompson  
Director Infill Land Operations

STATE OF COLORADO )  
 ) ss.  
COUNTY OF LA PLATA )

SUBSCRIBED AND SWORN TO before me this 2nd day of June, 2005, by G. Scott Thompson, Director Infill Land Operations for BP America Production Company, a Delaware Corporation.

My commission expires: 12/12/05

Thomas J. Yuley Jr.  
Notary Public

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

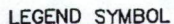
SUBSCRIBED AND SWORN TO before me this 04 day of MAY, 2005 by, FERN THOMPSON.

X My commission expires: MAR 25, 2007

X Manoj Singh  
Notary Public







- (RECORD BEARING AND DISTANCE TAKEN FROM GLO  
PLAT ON FILE AT BLM OFFICE IN DURANGO, CO)  
S.U.I.T. = SOUTHERN UTE INDIAN TRIBE  
BLM = BUREAU OF LAND MANAGEMENT

**SURVEYOR'S STATEMENT:**

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