

SURFACE DAMAGE AND RELEASE AGREEMENT

Surface Damage and Release Agreement ("**Agreement**") is made and entered into this 12th day of _____, by and between **Booth Land & Livestock Company, A Colorado general partnership** ("**Owner**"), and **Bayswater Exploration & Production, LLC**, ("**Operator**"); sometimes referred to each as a "**Party**," or collectively as the "**Parties**."

WITNESSETH:

For and in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **OWNERSHIP.** Owner is the surface owner of certain lands located in Weld County, Colorado as more specifically described as follows ("**Lands**"):

Township 7 North, Range 65 West, 6th P.M.
Section 35: NE

Notwithstanding anything herein to the contrary, this Surface Damage and Release Agreement only covers lands in the NE of Section 35 which are necessary to conduct operations as depicted on Exhibit "A" attached hereto.

Operator, and/or its affiliates, owns a working interest in valid leases covering lands in the SE of Section 26-T7N-R65W, Weld County, CO. (each a "**Lease**," collectively, the "**Leases**").

2. **OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.** Operator desires to drill or cause to be drilled oil and/or gas wells, the surface locations of which shall be on the Lands, as depicted approximately on Exhibit "A" attached hereto ("**Wells**"). In order for Operator to drill, construct, complete, produce, maintain, rework, and operate the Wells and all facilities associated therewith, including, but not limited to, access roads ("**Access Roads**"), pipelines, flow lines, separators, tank batteries, electric lines and any other facilities or property necessary for Operator to conduct operations on the Wells (each a "**Facility**," collectively, the "**Facilities**"), it is necessary that Operator enter and utilize a portion of the surface of the Lands.

Owner hereby grants to Operator, its successors and assigns, and each of their agents, employees, contractors and subcontractors, the right, privilege and easement for the purpose of locating and surveying the Facilities, and for constructing, entrenching, operating, maintaining, repairing, altering, replacing and removing the Facilities and appurtenant facilities, for the purposes specified herein, and including the rights of ingress to and egress from the Facilities across the Lands.

The Parties enter into this Agreement to evidence their entire agreement regarding the payment of surface damages, entry, surface use, and any other matters relating to Operator's use of the Lands.

3. **LOCATION.** The approximate location of the Wells, the Access Roads to the Well sites and certain other Facilities to be constructed on the Lands are depicted on Exhibit "A". Any material changes to the Wells, Access Roads, and Facilities locations may be made by Operator with the consent of Owner, which will not be unreasonably withheld, but will not unduly interfere with Owner's existing use of the

surface estate. Operator agrees not to use any more of the surface of the Lands than is reasonably necessary to conduct its operations.

4. **CONDUCT OF OPERATIONS.** Operator's operations on the Lands will be conducted pursuant to the terms of this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("**COGCC**"), and applicable Colorado statutes and case law.

5. **COMPENSATION AMOUNT.** [REDACTED]

[REDACTED] Well. The Amount shall be deemed full and agreed consideration for all damages caused or created by reason of the reasonable and customary ingress, egress, rights-of-way, drilling, completion, production and maintenance operations associated with the Wells and Facilities. Such damages will include, without limitation, damage to growing crops and crop land; the removal, transportation and care of any livestock; the re-seeding, construction and use of access roads; and the preparation and use of the wellsite areas. Any subsequent major operations for said Wells (refrac, recompletion, deepening, redrilling, etc.), except in case of emergency, shall require 10 days prior notice to Owner. Operator shall pay Owner all damages caused by said subsequent operations. [REDACTED]

6. **ADDITIONAL SURFACE USE PROVISIONS, ACCESS ROADS, FENCES AND FACILITIES.** With respect to its operations on the Lands, Operator will comply with the following provisions:

A. Access Roads:

- (i) Access Roads will not exceed 20 feet in width.
- (ii) Operator will maintain all Access Roads in good repair and condition.

B. Surface Restoration:

Upon permanent cessation of Operator's operations on the Lands, all areas thereof occupied or utilized by Operator will be restored by Operator to their original contour as nearly as is reasonably practicable, **and grass shall be re-seeded as necessary until it exists as it did prior to drilling.** Upon completion of the initial drilling and completion operations, lands not needed for production facilities, wellheads, or access roads shall be restored to original contour as is reasonably practicable, and grass shall be re-seeded as necessary until it exists as it did prior to drilling.

C. Other:

(i) Operator will install culverts on the Lands that may be necessary to maintain present drainage and irrigation otherwise affected by its operations on the Lands.

(ii) If by reason of the activities of the Operator, including, but not limited to, drilling, completing, equipping, and operating of the Wells, there is damage to personal property of the Owner, including, but not limited to, irrigation wells, fences, culverts, bridges, pipelines, ditches, or irrigation systems, and for which Owner has not been previously compensated pursuant to Paragraph 5, Operator will repair or replace such items after consultation with and to the reasonable satisfaction of the Owner.

Owner will notify Operator of any items damaged after the Wells construction and Operator will repair or replace such items after consultation with the Owner within 15 days of occurrence.

(iii) Operator agrees that all trash, refuse pipe, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for continued operations of the Wells will be removed and disposed away from the Lands no later than 30 days after the completion of the Wells. No such items will be burned or buried on the Lands.

(iv) During drilling operations the well sites and any pits shall be fenced if requested by Owner. After completion of the Wells and in the event of production, all production tanks shall be bermed. Additionally, the well sites shall be kept free and clear of all noxious weeds, unsightly growth and trash either during drilling operations or after completion and production.

(v) All guy line anchors for drilling and completion rigs shall be immediately removed after such work is completed.

(vi) Operator agrees to fence off the perimeter of the well sites with temporary fencing if reasonably requested by Owner. Operator will also install cattle guards and/or gates where reasonably necessary.

(vii) **All tank batteries shall be "low-profile", meaning that Operator shall take reasonable steps to ensure that the tank batteries are generally of a shorter height than standard size tank batteries.**

(viii) **Operator shall refrain from using "pits" in the drilling process by containing drilling fluids within a "closed-loop" system.**

7. **DEFAULT AND RIGHT TO CURE.** In the event of alleged default by Operator in the payment of any of the sums hereinabove provided to be made, in obligations to be performed, or any other terms, conditions or covenants of this Agreement, Owner will notify Operator, by certified mail, return receipt requested, of the alleged default. Operator will have 30 days from receipt of the written notification in which to dispute or otherwise respond to the notification before Owner may allege default.

Except as otherwise agreed in writing, no waiver by Owner of any breach by the Operator of any of its obligations, agreements, or covenants hereunder will be deemed to be a waiver of any subsequent or continuing breach of the same, nor will any forbearance by Owner to seek a remedy for any breach by the Operator be deemed to be a waiver by Owner of its rights or remedies with respect to such breach; however in no event will Operator be liable for consequential damages.

8. **INDEMNITY/RELEASE.** Owner hereby releases and agrees to hold harmless Operator from any and all liability and further payment, other than what has been provided herein, for damages on the Lands which arise from, out of or in connection with the Operator's operations on the Lands, but only as to those operations which are described in and permitted by this Agreement, and for those operations which the Amount has been paid and received by Owner pursuant to this Agreement.

Operator agrees to indemnify and hold Owner harmless from any and all claims, damages and causes of action arising out of and caused by Operator's operations on the Lands that may be asserted by any of Operator's agents, employees, subcontractors, contractors or persons entering upon the premises at the request of Operator.

9. **WAIVER OF 30-DAY NOTICE.** Owner hereby waives the minimum 30-day written notice requirement for operations to begin and any other notice or consultation requirements of the COGCC. Without waiving the foregoing, Operator agrees it will provide an initial notice to Owner after it has submitted a request for permit to drill from the COGCC.

10. **NOTICE FOR ADDITIONAL OPERATIONS.** Operator will comply with COGCC rules and regulations requiring that advance notice be provided to Owner for subsequent operations on the Wells, including, but not limited to, reworking operations thereto.

11. **NOTICES.** Notice by either Party will be promptly given, orally if possible (with the exception of the default notice described in Paragraph 7), with subsequent written confirmation (optional) sent by United States mail, postage prepaid and addressed to either Party at the address as designated below; or to such other place as either Party may from time to time designate by notice to the other:

Owner
Booth Land & Livestock
PO Box 72
Lucerne, CO 80646
Phone: (970) 302 4572
Attn: Mark Booth

Operator
Bayswater Exploration & Production, LLC
A Colorado Limited Liability Company
730 17th St, Ste 610
Denver, CO 80202
Phone: (303) 893-2503 x 208
Attn: Mr. Don Barbula

12. **BINDING EFFECT.** The covenants and conditions herein contained and all of the provisions of this Agreement will inure to the benefit of and will be binding upon the Parties hereto, their respective heirs, representatives, successors or assigns. Owner agrees to contact any and all tenants of Lands or any other third parties utilizing the surface of the Lands that may be affected by Operator's activities on the Lands. It will be Owner's sole responsibility to advise such third parties of the existence of this Agreement and Operator's right to utilize the surface of the Lands pursuant to this Agreement for the payment of any consideration, if any, due such third party from Owner.

13. **CONFIDENTIALITY.** The Parties agree to keep the terms and conditions of this Agreement confidential and will not disclose such matters to any third party without the advance written consent of the other, or if ordered to do so in a legal proceeding. While the specific terms hereof are to remain confidential between the Parties, Operator or Owner may record a memorandum of this Agreement in Weld County, Colorado.

14. **ENTIRE AGREEMENT.** This instrument contains the entire agreement between the Parties and may not be modified orally or in any other manner other than by agreement in writing signed by all Parties or their respective successors or assigns.

15. **TERMINATION.** This Agreement will terminate concurrently with the applicable oil and gas lease(s) as they relate to Operator(s) and/or its affiliates rights to explore, drill, and produce hydrocarbon from the Lands or lands pooled therewith. **Notwithstanding anything in this provision to the contrary, this Agreement shall only apply to wells spud before May 12, 2013.**

16. **REASONABLE ACCOMMODATION.** Owner acknowledges the right to use of the surface estate of the Lands by Operator as herein described are expressly granted to Operator, its successor, and assigns; therefore Owner further acknowledges Operators use of the surface estate of the Lands as granted herein to Operator shall constitute "reasonable accommodation" by Operator, its successor, and assigns with respect to Colorado revised statute 34-60-127.

17. **COUNTERPARTS.** This Agreement may be executed by facsimile, in counterparts, each of which will be considered an original and enforceable against either Party.

18. **GOVERNING LAW AND VENUE.** This Agreement will be governed by, construed and enforced in accordance with the laws of Colorado. Venue shall be deemed to be in Weld County, Colorado.

19. **ATTORNEY'S FEES AND COSTS.** The Parties agree that the prevailing Party in any action resulting from a breach of this Agreement will be entitled to its reasonable attorneys' fees and costs incurred therein.

20. **AUTHORITY OF SIGNATORIES.** The signatories below declare, warrant and represent that they have the authority to enter into this Agreement on behalf of their respective principals, if any.

21. **SUCCESSORS.** This Agreement constitutes a covenant running with the Lands and will be binding upon and inure to the benefit of, and be enforceable by, the Parties and their respective successors, affiliates, administrators, trustees, executors and assigns.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IT IS HEREBY UNDERSTAND THAT OPERATOR DOES NOT HAVE OIL AND GAS LEASES COVERING LANDS IN SECTION 35-T7N-R65W, 6TH PM. OWNER IS EXPRESSLY ALLOWING OPERATOR TO DRILL DIRECTIONAL WELLS ON SECTION 35 LANDS IN ORDER TO REACH LEASES OPERATOR OWNS COVERING LANDS IN THS SE/4 OF SECTION 26-T7N-R65W.

IN WITNESS WHEREOF, the Parties have set their hands, the day and year first written above.

Bayswater Exploration & Production, LLC

Operator:


Ben Schuessler, District Landman

Owners (Name and Title):

Booth Land & Livestock
by Mark Booth
(Partner)

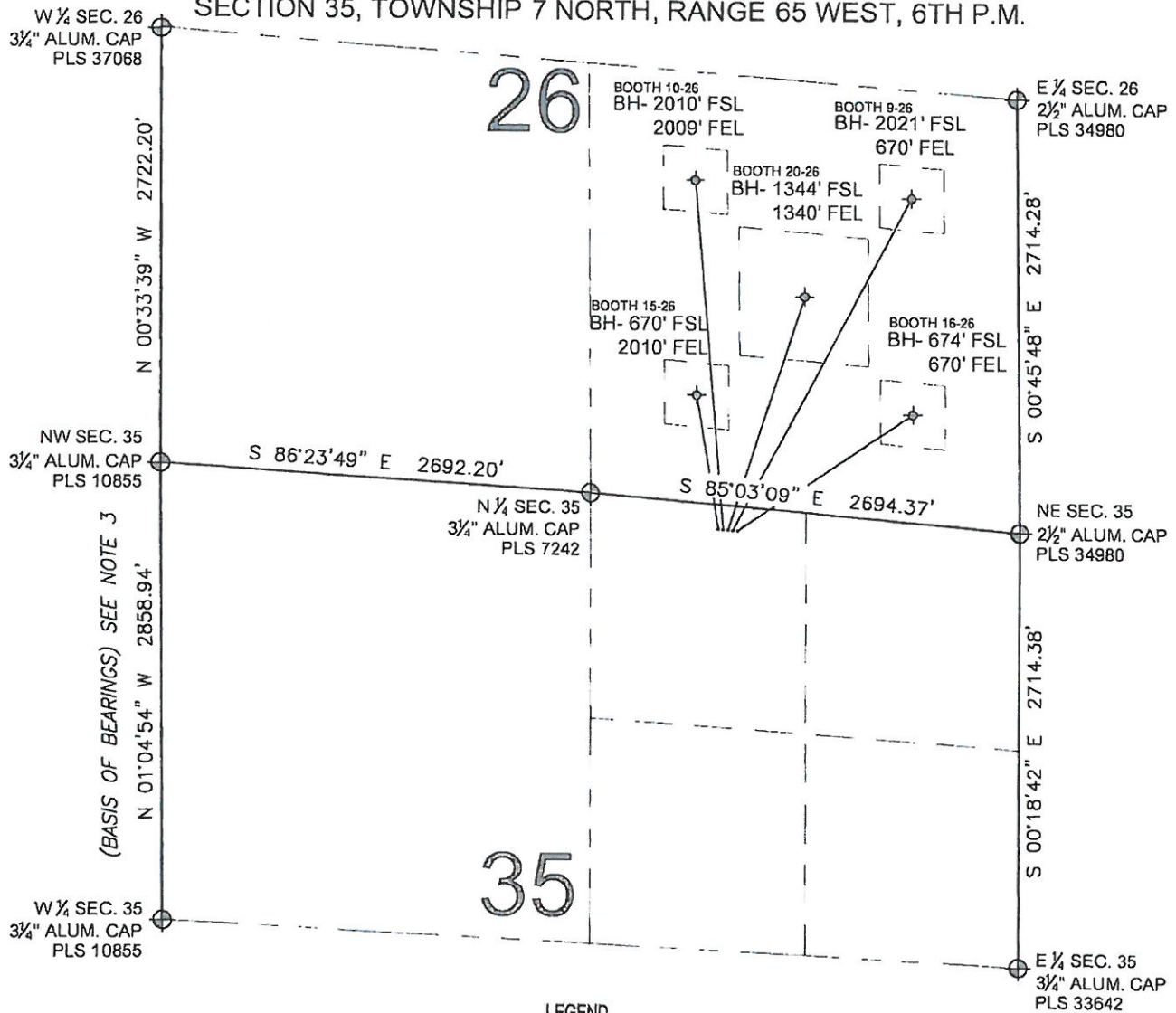
This aerial map shows a wellhead site. A red dot in the upper left is labeled 'Wellheads'. A yellow line, labeled 'Access Road 35', runs horizontally across the middle. A black line, labeled 'Section line dividing the SW of section 26 and the NE of section 35', runs vertically through the center. A yellow rectangle in the lower left is labeled 'Facilities'. A north arrow is in the top right corner. The map is divided into sections 26 and 35 by the section line.

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EXH "A" CONTD

PAD DRAWING: BOOTH 5 PAD

SECTION 35, TOWNSHIP 7 NORTH, RANGE 65 WEST, 6TH P.M.



LEGEND

- ⊕ = EXISTING MONUMENT
- ⊙ = PROPOSED WELL
- ◆ = BOTTOM HOLE
- ⬠ = EXISTING WELL
- BH= BOTTOM HOLE

NOTES:

BOOTH 16-26 TO BE AT 151' FNL, 1788' FEL.
 BOTTOM HOLE AT 674' FSL & 670' FEL.
 BOOTH 9-26 TO BE AT 151' FNL, 1803' FEL.
 BOTTOM HOLE AT 2021' FSL & 670' FEL.
 BOOTH 20-26 TO BE AT 151' FNL, 1818' FEL.
 BOTTOM HOLE AT 1344' FSL & 1340' FEL.
 BOOTH 10-26 TO BE AT 151' FNL, 1833' FEL.
 BOTTOM HOLE AT 2010' FSL & 2009' FEL.
 BOOTH 15-26 TO BE AT 151' FNL, 1848' FEL.
 BOTTOM HOLE AT 670' FSL & 2010' FEL.

NOTES:

1. THIS FIELD SURVEY CONFORMS TO THE MINIMUM STANDARDS SET BY THE C.O.G.C.C., RULE NO. 215
2. HORIZONTAL POSITIONS AND ORTHOMETRIC ELEVATIONS SHOWN AT THE WELL HEAD, ARE BASED ON GPS-RTK POSITIONS DERIVED FROM MINIMUM 2-HOUR STATIC OBSERVATIONS CORRECTED BY THE NATIONAL GEODETIC SURVEY ONLINE POSITIONING USER SERVICE, O.P.U.S. DATUM: HORIZONTAL = NAD83/2007, VERTICAL = NAVD88
3. THE BASIS OF BEARINGS ARE STATE PLANE COORDINATE SYSTEM GRID BEARINGS SHOWN HEREON BETWEEN THE DESCRIBED THE MONUMENTS SHOWN HEREON.
4. GRID DISTANCES ARE SHOWN, AS MEASURED IN THE FIELD, WITH TIES TO WELLS MEASURED PERPENDICULAR TO SECTION LINES.

PREPARED BY:

PFS



Petroleum Field Services, LLC
 1801 W. 13th Ave.
 Denver, CO 80204

BAYSWATER EXPLORATION & PRODUCTION, LLC

FIELD DATE:
07-07-11

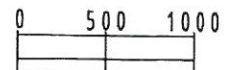
PAD NAME:
BOOTH 5 PAD

DRAWING DATE:
07-19-11

SURFACE LOCATION:

BY:
EFW

WELD COUNTY, COLORADO
 NW 1/4 NE 1/4, SEC. 35, T7N, R65W



SCALE: 1"=1000'