

B 1221 REC 02167790 01/12/89 15:00 \$6.00 1/002  
F 1378 MARY ANN FEUERSTEIN CLERK & RECORDER WELD CO, CO

EASEMENT  
and  
SURFACE USE AGREEMENT

AR2167790

This Easement and Surface Use Agreement ("Agreement") is entered into this 17 day of November, 1988, by and between Paul E. Schmidt, whose address is 13519 Weld County Road 18 1/2, Ft. Lupton, Colorado 80621, and Harold W. Schmidt, whose address is 1729 South Elm Street, Denver, Colorado 80222, ("Surface Owner"), and ELK EXPLORATION, INC., a California corporation ("Elk"), with offices at 3807 Carson Avenue, Evans, Colorado 80620, covering certain lands, (the "Lands"), situated in Weld County, Colorado, described as follows:

Township 3 North, Range 66 West, of the 6th P.M.  
Section 33: W/2 SW/4, SE/4 SW/4, W/2 SE/4, NE/4 SE/4

For and in consideration of the sum of ten dollars (\$10.00), and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree to the terms and provisions set forth as follows:

1. Compensation for Well; Release of All Claims.

Elk shall pay to Surface Owner the sum as set forth and agreed to in that Letter Agreement by and between Surface Owner and Elk, dated November 17<sup>th</sup>, 1988, as full and final settlement and satisfaction for any and all detriment, depreciation, injury or damage of any nature and/or character caused by Elk to the value of the real estate, growing crops or livestock thereon including, but not limited to, all surface use, access, surface damages, mud and reserve pits, wellhead equipment, separators, tank batteries, pipelines, flow lines and any and all other reasonable and customary uses of land as a result of drilling and completion operations and continuing activities for the production of oil and gas.

2. Grant of Right of Way and Easement.

Surface Owner hereby grants, bargains, sells, assigns and conveys to Elk an easement and right of way for the purpose of constructing, using and maintaining an access road, location for surface equipment and subsurface gathering lines for each well drilled upon the Lands for two years from the date of commencement of surface activities for drilling operations and so long thereafter as oil and/or gas is produced or capable of being produced from any well drilled on the leased premises.

This Agreement shall be binding upon the respective heirs, executors, administrators, successors, and/or assigns of the undersigned.

Executed this 17<sup>th</sup> day of November, 1988.

Paul E. Schmidt

Harold W. Schmidt

Paul E. Schmidt

Harold W. Schmidt

Page 2 of 2  
SOA/Schmidt  
33-3N-66W

*Paul E Schmidt*

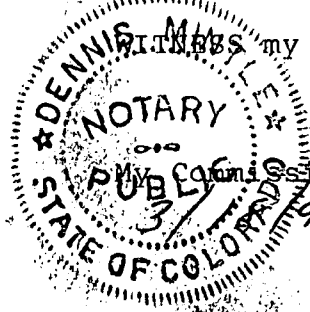
ELK EXPLORATION, INC.

By: *Ronald B. Jacobs*  
Ronald B. Jacobs  
Vice President, Operations

STATE OF Colorado )  
COUNTY OF Weld ) ss.

On this 12th day of November, 1988, before me personally appeared Paul E. Schmidt, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal.



*Dennis Mente*  
Notary Public

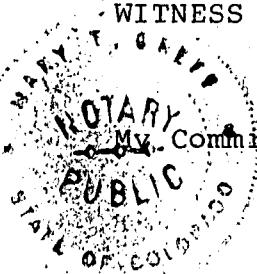
Address: 140 Denver Ave  
74 Lexington, Colo 80621

\* \* \* \* \*

STATE OF Colorado )  
COUNTY OF Denver ) ss.

On this 17th day of November, 1988, before me personally appeared Harold W. Schmidt, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal.



*Mary T. Gaff*  
Notary Public

Address: 2555-S-Colo Blvd.  
Denver, Co 80222

\* \* \* \* \*

STATE OF California )  
COUNTY OF San Francisco ) ss.

On this 12th day of December, 1988, before me personally appeared Ronald B. Jacobs, as Vice President, Operations, of Elk Exploration, Inc., a California corporation, to me personally known to be its Vice President, Operations and the identical person whose name is affixed to the above instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said Elk Exploration, Inc.

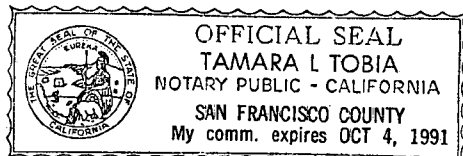
WITNESS my hand and official seal.

*Tamara L. Tobia*  
Notary Public

My Commission Expires:  
October 4, 1991

Address: 535 Pacific Ave  
San Francisco CA

94133



535 Pacific Ave., 3rd Floor, San Francisco, CA 94133