

**MEMORANDUM OF SURFACE DAMAGE AND RELEASE AGREEMENT**

This Memorandum of Surface Damage and Release Agreement is executed by **James Toomer and Kathy Toomer**, husband and wife, whose address is 3000 County Road 342, Silt, Colorado 81652 (“Owner”) and **Encana Oil & Gas (USA) Inc.**, 370 17th, Suite 1700, Denver, Colorado 80202 (“Encana”) and placed of record in Garfield County, Colorado for the purpose of placing all persons on notice of the existence of that certain unrecorded Surface Damage and Release Agreement between Owner and Encana dated **November 2, 2012** (the “A greement”).

The Agreement provides for the use of the surface of the land described below by Encana in connection with certain oil and gas operations and for the compensation to Owner for all damages to the surface of the land associated with the drilling, construction, testing, completion, recompletion, reworking, re-entry, production, maintenance and operation of the well(s) and all pipelines, tank batteries, and other facilities or property of Encana or its affiliates associated with the well(s) located on the **B26E well site**, to be located in:

**Township 7 South, Range 92 West, 6<sup>th</sup> P.M.**

Section 26: NW1/4NE1/4

Garfield County, Colorado

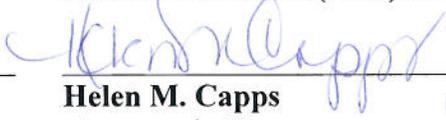
**A true and complete copy of the Agreement is available from Encana to any person owning an interest in the above described land.**

**Owner**

  
\_\_\_\_\_  
**James Toomer**

  
\_\_\_\_\_  
**Kathy Toomer**

**Encana Oil & Gas (USA) Inc.**

  
\_\_\_\_\_  
**Helen M. Capps** *ow y40*  
Attorney-in-Fact

**ACKNOWLEDGEMENTS**

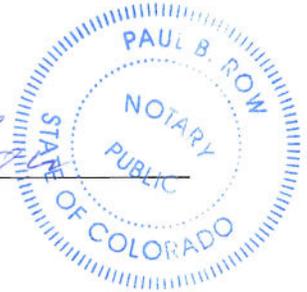
State of Colorado )  
 ) §  
County of Garfield )

On this 2nd day of November, 2012, before me personally appeared **James Toomer and Kathy Toomer**, husband and wife, known to me to be the persons described in and who executed the foregoing instrument, and who acknowledged to me that they executed the same.

(SEAL)

My commission expires: 5/12/2016

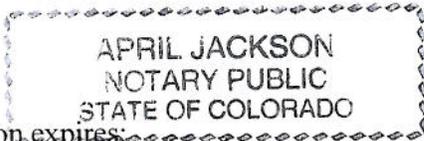
Paul B. Row  
Notary Public



State of Colorado )  
 ) §  
County of Denver )

On this 8<sup>th</sup> day of January, <sup>2013</sup>2012, before me personally appeared Helen M. Capps, Attorney-in-Fact for **Encana Oil & Gas (USA), Inc.**, known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that they executed the same.

(SEAL)



My commission expires: My Commission Expires 03/25/2013

April Jackson  
Notary Public