

SURFACE USE AGREEMENT

This Surface Use Agreement is dated and made effective this 1st day of June 2012, and is between Great Western Oil and Gas Company ("Great Western") with an address of 1700 Broadway, Suite 650, Denver, CO 80290, and Raindance Aquatic Investments, LLC., with an address of 1625 Pelican Lakes Point, Suite 201, Windsor, CO 80550. (hereinafter referred to as "Raindance")

- A. By execution of this Surface Use Agreement dated June 1, 2012, the previously executed Surface Use Agreement dated June 27, 2011 between Great Western and Raindance is hereby void and is replaced with the terms and conditions hereby set forth.
- B. Raindance owns the surface estate of those certain tracts of land more particularly described on Exhibit "A" attached hereto, located in Weld County, Colorado (hereinafter referred to as the "Property");
- C. Raindance's ownership of the Property is subject to the rights of the oil and gas mineral leasehold estate, a portion of which is owned by Great Western
- D. Raindance plans to develop the surface of the property.
- E. This Agreement sets forth the parties' rights and obligations regarding the relationship between the development of the Property by Raindance and Great Western's operation and development of its oil and gas leasehold estate underlying the Property, such rights and obligations to be binding upon the parties' successors and assigns.
- F. Great Western intends to drill, complete and operate oil and gas wells ("Wells") on the Property, located on the production sites described on Exhibit "B" attached hereto, known as production pads (the "Pads").

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. AREAS RESERVED FOR THE EXISTING WELL AND FUTURE WELLS.

Raindance shall set aside and provide to Great Western that portion of the Property hereinafter referred to as the Oil and Gas Operations Area or "Pad", such area(s) being depicted on Exhibit "B" attached hereto. The Oil and Gas Operations Area are to be made available to Great Western in their present condition for any operations conducted by Great Western in connection with the Wells, including, but not limited to, drilling and production activities, workovers, well deepening's, recompletions, fracturing and replacement wells. Except for the Pads, and the access roads and easements associated with flowlines, gathering lines and pipelines as provided in this Agreement, Great Western shall not occupy the surface

of the Property except in the event of an emergency or for reasonable incidental, temporary and non-damaging activities, for which Great Western shall be strictly and solely responsible for any damages that may occur.

2. SETBACK REQUIREMENTS.

Raindance will not locate any lot line, building, or structure within any Pad. Raindance understands and acknowledges that the COGCC has rules and regulations that apply to the distance between a wellhead and public roads, production facilities, building units and surface property lines, among other things. In order to give full effect to the purposes of this Agreement, Raindance hereby waives its right to object to the location of any of Great Western's facilities on the basis of setback requirements in the rules and regulations of the COGCC, as they may be amended from time to time. Raindance further and similarly waives its right to object to any other state or local setback requirements or other requirements or regulations that are or become inconsistent with this Agreement or that would prohibit or interfere with the rights of Great Western, its successors and assigns, to explore for and produce the oil and gas in accordance with this Agreement. Great Western or its successors and assigns may cite the waiver in this paragraph in order to obtain a location exception or variance under COGCC rules or from any other state or local governmental body having jurisdiction. Raindance agrees not to object to the use of the surface in the Pads so long as such use is consistent with this Agreement and Raindance will provide Great Western or its successors and assigns with whatever written support they may reasonably require to obtain permits from the COGCC or any local jurisdiction.

Raindance may seek to develop the Property for residential or commercial real estate in the future, and may request waivers of the setback requirements for residential or commercial buildings from Great Western's production equipment, from the government entities having jurisdiction over such setbacks. Great Western agrees to give written support to any such request by Raindance for reduced setbacks provided that the proposed reduction still provides for a setback of no less than 150 feet from Company's production equipment to any occupied structure. In addition, Great Western agrees that Raindance may emplace an earthen, grass and/or shrubbery topped, privacy berm measuring up to eight feet in height around Great Western's production equipment within each Pad, the inside base of which shall be nowhere closer than 100 feet to Company's production equipment, and that Raindance may install gated security fencing around the outside of such a berm, and thereafter require Company to keep the gate(s) locked at all times when no company employees are present at the production equipment site. The Pads shall be depicted and labeled on all subdivision plats or other platted submissions submitted to any government entity having jurisdiction over residential and commercial real estate developments on the Property. Great Western agrees in addition that it shall not object to any type of land use outside of the setbacks described in this paragraph.

Raindance shall require any purchaser or assignee of any portion of its interest in the Property to execute waivers acceptable to Great Western stating that said purchaser or assignee waives any requirement for any drilling, completion, or production equipment located within a Pad to be located further than 150' from the purchaser or assignee's property boundary line or planned construction of any building.

3. GATHERING LINES AND FLOWLINES.

Subject to the limitations hereinafter described, Great Western has a continuing right and entitlement to own, operate, maintain, repair and replace all flowlines, gathering lines and other pipelines that may be necessary or convenient to its operations on the Property. Although this Agreement is intended to confine the placement of those pipelines to certain specified locations within the Property; nothing herein shall be construed as a limitation on Great Western's ultimate right to make all necessary well connections to any Existing or Future Well. Raindance's development plans may require the relocation of existing gathering lines to designated easement corridors. Great Western shall not object to any such relocation so long as such relocation is reasonable and feasible from a technical and engineering standpoint and complies with all applicable rules and regulations. All such relocations shall be at Raindance's cost and expense as hereafter described. Great Western shall abandon any portion of a flowline or pipeline easement or access road that will no longer be used for its operations. To abandon a flowline or pipeline, Great Western shall flush the line with water and notify Raindance in writing of the abandonment and the location of the abandoned pipeline; Great Western shall not be required to dig up and remove the line once abandoned.

At such time as Raindance desires to have any pipeline relocated to a Petroleum Pipeline Easement, it shall give written notice to Great Western who shall promptly prepare, or commission the preparation of, a cost estimate to accomplish the relocation. As soon as available, Great Western will then provide the cost estimate to Raindance who will then have the opportunity to review same and make a final determination about whether it wishes to proceed with the relocation. If Raindance elects to have Great Western effectuate the pipeline relocation, it shall tender the estimated costs of such to Great Western together with its written request to commence the project as soon as reasonably practicable, or as otherwise requested by Raindance. If it has not already done so, Raindance shall also deliver to Great Western an executed and acknowledged Pipeline Right of Way Grant on the form that is attached hereto as Exhibit "C" in order to convey the Petroleum Pipeline Easement lands as shown on Exhibit "C". The Petroleum Pipeline Easements shall be fifty feet (50') in width during construction, installation or relocation operations and otherwise reduced to thirty feet (30') in width for post-construction usage. The Petroleum Pipeline Easements shall be depicted and labeled on all subdivision plats or other platted submissions submitted to any government entity having jurisdiction over residential and commercial real estate developments on the Property.

All pipelines shall be located within the Petroleum Pipeline Easements unless otherwise agreed upon between Raindance and Great Western. Great Western acknowledges that the Petroleum Pipeline Easement will be non-exclusive and agrees that it will not object to its concurrent use by other oil and gas operators or utilities, as Raindance may grant from time to time, so long as such other parties comply with Great Western's pipeline guidelines, attached hereto as Exhibit "C". Notwithstanding the foregoing, Raindance shall not permit, nor shall it place any other utility or structure within ten feet horizontally or two feet vertically of any Great Western pipeline.

If Raindance's development plans anticipate that paved roadways will or may in the future cross over then existing pipelines. Raindance agrees to pay for the cost to have Great Western sleeve any pipeline that is to be crossed by such roadways, such payment to be made in advance of the work and Raindance shall not permit any paved roadway crossing of any pipeline until the sleeving of the affected line has been completed. Great Western shall not, without the prior written consent of Raindance, have the right to lay additional flowlines or pipelines on the Property, outside the Petroleum Pipeline Easements. All flowlines and pipelines shall be buried to a depth of approximately 54 inches from the surface. Raindance shall maintain a minimum of 42 inches and not more than 72 inches of cover over all pipelines and flowlines during any of Raindance's operations on the Property. The construction and burying of additional flowlines, gathering lines and pipelines shall be at the sole cost and expense of Great Western or its gas purchaser.

4. ACCESS.

Raindance shall provide Great Western with continuous access to all of the Pads and the Petroleum Pipeline Easements. The access roads to be used by Great Western will either be those roads that currently are in place or those that are anticipated to be constructed by Raindance at its sole cost and expense as part of Raindance's development of the Property. All such future access roads constructed shall be of sufficient scope to allow Great Western to conduct its oil and gas operations and shall be at least 30 feet in width and built to withstand a minimum of 104,000 pounds and 26,000 pounds per axle. Great Western agrees to access the Property according to the routes designated in writing by Raindance once the new access roads are constructed by Raindance, and Raindance provides Great Western notice of such, but Great Western may continue to use its present access routes until that time and until receipt of such notice from Raindance.

5. BATTERIES AND EQUIPMENT.

Great Western shall have the right to locate, build, repair and maintain tanks, separators, dehydrators, compressors and other equipment reasonably appropriate for the operation and production of the Wells or any Future Wells only within the Pads.

With respect to Great Western's equipment and facilities other than flowlines or pipelines:

a. Great Western shall install and maintain, at its sole cost and expense, chain link fences with privacy slats around the Pads, once the initial drilling and completion operations for the first set of wells drilled from any Pad have been completed.

b. Great Western shall install and maintain, at its sole cost and expense, all gates and locks reasonably necessary for the security of any wells or facilities in the Oil and Gas Operations Areas. Such gates and locks shall be the standard gates and locks used by Great Western;

c. Other than the separator stacks and tank vent valve stacks, no permanently emplaced production equipment at a Pad shall exceed eight feet in height, except for pumping units as provided for below.

d. Only electric motors shall be used for any powered production equipment to be placed on a Pad. Except for compressors with electric motors that are components of Vapor Recovery Units ("VRU"s), no compressors may be emplaced on any Pad without Raindance approval, which approval shall not be unreasonably withheld if such a compressor is reasonably necessary to lower the separator inlet pressures for the separators located on the Pad, in order that wells may be able to lift produced fluids with plunger lifts using the wells' gas pressure.

e. The parties agree that pumping units may be emplaced on wells located in the Pads under the following conditions. First, the use of a pumping unit, must be reasonably necessary from a technical and engineering standpoint, the well in question having too little gas pressure for other lifting methods such as plunger lifts to provide for full production from the well. Secondly, any pumping unit must have electric motors only, unless otherwise agreed to by Raindance in writing. Raindance agrees that, provided that no residential or commercial development has occurred within 500 feet of a given Pad at the time, Great Western may emplace a temporary pumping unit with a gas engine on a well or wells within the Pad for a period of up to 120 days for the purpose of testing the efficiency of a pumping unit in producing the well, or dewatering the well after a completion or recompletion. The temporary pumping unit shall be exempt from the 55 decibel at 150 noise standard set forth below, but not from the COGCC standard. Third, Raindance may require that Great Western give it 120 days notice, at so that Raindance can emplace, at its own expense, a 6 foot privacy berm located in the Pad area 100 feet to 150 feet from the production equipment, completely around any Pad, when installing a permanent pumping unit. Raindance shall be responsible for landscaping any such berm.

f. All equipment, including pumping units, emplaced on any Pad must meet a noise standard of 55 decibels at 150 feet from the equipment. If needed, Raindance may emplace a 6 foot privacy berm as contemplated in (e.) above, to enable Great Western's equipment to meet this standard. The only exception shall be for workovers and recompletion operations, which shall meet COGCC (light industrial) standards.

g. Great Western shall paint any production facilities for any wells, including wellhead guards, with paint that is approved by the COGCC; and

h. Raindance shall not inhibit Great Western's access to the Oil and Gas Operations Areas or inhibit Great Western's operations within the Oil and Gas Operations Areas by landscaping or other improvements, unless otherwise agreed upon between Raindance and Great Western.

i. Raindance shall be entitled to use the low pressure outlet gas from any Vapor Recovery Unit that would otherwise be burned off at a burner stack. Raindance's use of said waste gas shall be at its own risk and expense, and shall impose no more than 30 psi of back pressure on the gas outlet of the VRU.

7. SURFACE USE AND DAMAGE PAYMENTS.

At least 15 days prior to commencing dirt work for any drillsite(s) within any Pad; Great Western shall pay to Raindance the sum of _____ well to be drilled from any of the Pad.

Great Western shall compensate Raindance for damage to personal property or to improvements on the Property, such as damage to buildings, fences, gates, culverts and livestock, and for other such extraordinary losses or physical damages caused by Company. Company agrees to promptly compensate Owner for such extraordinary losses and physical damages. Any failure to reach mutual agreement with respect to such compensation shall not, however, be deemed to constitute a breach or abrogation of this Agreement, nor to terminate or diminish the grants, conveyances, rights and obligations contained herein.

6. NOTICE OF FUTURE OPERATIONS.

Great Western shall provide at least seven (7) days prior written notice to Raindance of any operations in connection with the reworking, fracturing, deepening or recompletion operation of any well within a Pad. In addition Great Western shall provide at least thirty (30) days prior written notice to Raindance and/or any homeowner's association located on the Property prior to the drilling of any wells. Regardless of the foregoing notice requirements, Great Western shall have immediate access to any of its facilities in the event of an emergency.

After receipt of the above notice, but not less than five (5) working days prior to Great Western's mobilization on the applicable Pad, either Great Western or Raindance may request an on-site meeting. The purpose of the meeting shall be to inform Raindance of the expected activity and to coordinate site access, hazards, barricades, restoration or any other issues that affect the use and safety of Raindance's development.

7. NOTICES TO HOMEOWNERS AND BUILDERS.

Raindance shall furnish all buyers of the Property from Raindance with a plat or map showing the Pads and the Easements. In addition, Raindance shall provide notice to all builders, homeowners, homeowner associations and other buyers of the Property from Raindance that:

a. There may be ongoing oil and gas operations and production in the Oil and Gas Operations Areas on the surface of the Property;

b. There are likely to be additional Future Wells drilled and oil and gas operations and production from the Oil and Gas Operations Areas that affect the surface of the Property;

c. Heavy equipment may be used by Great Western from time to time for oil and gas production operations and that such operations may be conducted on a 24 hour basis;

d. Future purchasers of all or a portion of the Property, as successors in interest to Raindance, will be acquiring a proportionate interest in Raindance's rights under this Agreement and assuming those obligations undertaken by Raindance pursuant to this Agreement; and

e. Homeowner associations and buyers of individual lots or homes, as successors in interest to Raindance, will be acquiring a proportionate interest in Raindance's rights under this Agreement, and will be subject to the waivers contained in Sections 3, 9, and the covenants contained in Section 3 prohibiting the location of any building or structure within the Oil and Gas Operations Areas or the Easement and waiving objection to any setback rules of the COGCC or any local jurisdiction.

8. DRILLING AND COMPLETION OPERATIONS.

Great Western shall endeavor to diligently pursue any future drilling operations to minimize the total time period and to avoid rig relocations or startup during the course of drilling. Raindance waives any objections to continuous (i.e., 24-hour) drilling operations.

9. GOVERNMENTAL PROCEEDINGS.

Raindance shall not oppose Great Western in any agency or governmental proceedings, including but not limited to the COGCC, the City of Windsor, or other governing body proceedings, related to Great Western's operations on the Property, including but not limited to drilling, workovers, well deepening's and recompletions, provided that Great Western's position in such proceedings is consistent with this Agreement.

10. LIMITATION OF LIABILITY, RELEASE AND INDEMNITY.

f. Neither party shall be liable for, or be required to pay for, special, punitive, exemplary, incidental, consequential or indirect damages to any other party for activities undertaken within the scope of this agreement;

g. Except as to claims arising out of pollution or environmental damage (which claims are governed by Section 12 below) or out of other provisions of this Agreement (which claims shall be governed by the terms of this Agreement), each party shall be and remain responsible for its own liability for all losses, claims, damages, demands, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation attorneys' fees and other costs associated therewith (all of the aforesaid herein referred to collectively as "Claims"), arising out of or connected with each such party's ownership or operations on the Property, no matter when asserted, subject to applicable statutes of limitations. Each such party shall release, defend, indemnify and hold the other parties, their officers, directors, employees, successors and assigns, harmless against all such Claims. This provision does not, and shall not be construed to, create any rights in persons or entities not a party to this Agreement, nor

does it create any separate rights in parties to this Agreement other than the right to be indemnified for Claims as provided herein;

h. Upon the assignment or conveyance of a party' entire interest in the Property, that party shall be released from its indemnification in Section 11.b. above, for all actions or occurrences happening after such assignment or conveyance

11. ENVIRONMENTAL INDEMNITY.

The provisions of Section 11 above, except for Section 11.a., shall not apply to any environmental matters, which shall be governed exclusively by the following, subject to the limitations of Section 11.a. above:

i. "Environmental Claims" shall mean all Claims asserted by governmental bodies or other third parties for pollution or environmental damage of any kind, arising from operations on or ownership of the Property or ownership of the oil and gas leasehold interest, whichever is applicable, and all cleanup and remediation costs, fines and penalties associated therewith, including but not limited to any Claims arising from Environmental Laws or relating to asbestos or to naturally occurring radioactive material. Environmental Claims shall not include the costs of any remediation undertaken voluntarily by any party, unless such remediation is performed under the imminent threat of a Claim by a governmental body or other third party;

j. "Environmental Laws" shall mean any laws, regulations, rules, ordinances, or order of any governmental authority(ies), which relate to or otherwise impose liability, obligation, or standards with respect to pollution or the protection of the environment, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), the Clean Water Act (33 U.S.C. §§ 466 et seq.), the Safe Drinking Water Act (14 U.S.C. §§ 1401-1450), the Hazardous Material Transportation Act (49 U.S.C. §§ 1801 et seq.), the Clean Air Act, and the Toxic Substances Control Act (15 U.S.C. §§ 2601-2629); and

k. Environmental Indemnification. Great Western shall protect, indemnify, and hold harmless Raindance, homeowners association and any lot owner who purchases a lot from Raindance from any Environmental Claims relating to the Property or oil and gas leasehold thereunder that arise out of Great Western's ownership and operation of the Oil and Gas Operations Areas and its ownership and operation of its pipeline easement or rights-of-way on the Property. Raindance shall fully protect, defend, indemnify and hold harmless Great Western from any and all Environmental Claims relating to the Property that arise out of Raindance's development of the Property.

12. EXCLUSION FROM INDEMNITIES.

The indemnities of the parties herein shall not cover or include any amounts which the indemnified party is actually reimbursed by any third party. The indemnities in this Agreement shall not relieve any party from any obligations to third parties.

13. NOTICE OF CLAIM FOR INDEMNIFICATION.

If a Claim is asserted against a party for which the other party would be liable under the provisions of Section 11 or 12 above, it is a condition precedent to the indemnifying party's obligations hereunder that the indemnified party give the indemnifying party written notice of such Claim setting forth all particulars of the Claim, as known by the indemnified party, including a copy of the Claim (if it is a written Claim). The indemnified party shall make a good faith effort to notify the indemnifying party within five days of receipt of a Claim and shall affect such notice in all events within such time as will allow the indemnifying party to defend against such Claim.

14. REPRESENTATIONS.

Each party represents that it has the full right and authority to enter into this Agreement. Great Western does not represent that it has rights to settle matters for all of the mineral owners or any other lessees in the Property and this Agreement shall only apply to and bind the Great Western mineral and leasehold interest in the Property.

15. SUCCESSORS.

The terms, covenants, and conditions hereof shall be binding upon and shall inure to the benefit of the parties and their respective heirs, devisees, executors, administrators, successors and assigns; provided, as to Great Western, successors and assigns shall be deemed to be limited to lessees under the oil and gas leases which Great Western owns.

16. TERM.

This Agreement shall become effective when it is fully executed and shall remain in full force and effect until Great Western has plugged and abandoned all wells owned all or in part by Great Western and complied with the requirements of all applicable oil and gas leases pertaining to removal of equipment, reclamation, cleanup and all other applicable provisions of the leases and existing laws and regulations.

17. NOTICES.

Any notice or other communication required or permitted under this Agreement shall be sufficient if deposited in U.S. Mail, postage prepaid, addressed to each of the following:

If to Great Western:

Great Western Oil and Gas Company
1700 Broadway, Suite 650
Denver, Colorado 80290
Attention: Scott A. Wilson

If to Raindance:

Raindance Aquatic Investments, LLC
1625 Pelican Lakes Point, Suite 201
Windsor, CO 80550
Attn: Martin Lind

Any party may, by written notice so delivered to the other parties, change the address or individual to which delivery shall thereafter be made.

18. RECORDING.

This Agreement, any and amendment hereto shall not be recorded, Great Western may record a Memorandum of Surface Use Agreement, setting forth the identity of the parties to the Agreement, the effective date, and the lands covered by the Agreement, for the purpose of notice to third parties. Great Western shall provide Raindance with a recorded copy as soon as practicable thereafter.

19. SURFACE DAMAGES.

Raindance hereby waives all surface damage payments pursuant to any COGCC or local regulation, state statute, common law or prior agreement, for each and every well that is drilled, tank battery and emissions control device located on the Property within the Oil and Gas Operations Areas and also including but not limited to any access road, flowline, or pipeline constructed within the Easement. Great Western may provide a copy of this Agreement to the COGCC as evidence of this waiver.

20. ARBITRATION.

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be resolved by arbitration conducted in Denver, Colorado and shall be administered by the American Arbitration Association under its commercial rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

21. APPLICABLE LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without reference to its conflict of law's provisions.

22. ENTIRE AGREEMENT.

This Agreement sets forth the entire understanding among the parties hereto regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by all parties.

23. EXECUTION AND BINDING EFFECT

This Agreement may be executed in any number of counterparts each of which shall be deemed an original instrument but all of which together shall constitute one and the same instrument, and shall be binding upon and inure to the benefit of the parties, and each of their respective heirs, executors, administrators, successors and assigns and is executed by the parties as of the Effective Date set forth above.

The parties have executed this Agreement on the day and year first above written

Great Western Oil and Gas Company, LLC

By:  20p 7-19-12

Name: Rich Aurand

Title: Manager

Raindance Aquatic Investments, LLC

BY: 

Name: Martin Lind

Title: Manager

EXHIBIT "A"

Attached to and made a part of that certain Surface Use Agreement dated June 1, 2012 between Great Western Oil & Gas Company and Raindance Aquatic Investments, LLC

Lots 4 and 5, Water Valley West Subdivision, Being a Replat of Lots 2 and 3, Water Valley West – Imago Enterprises Minor Subdivision Located in Sections 30, 31, and The west half of Section 29, Township 6 North, Range 7 West, of the Sixth Principal Meridian, Town of Windsor, County of Weld, State of Colorado

Exhibit "B"

Attached to and made a part of that certain Surface Use Agreement dated June 1, 2012 between Great Western Oil & Gas Company and Raindance Aquatic Investments, LLC

Drill Pad # 1

RAINDANCE FD #1-H, FD #1-2H, FD #2-H, FD #3-2H, FD #3-H, FD #3-4H & #4-H

BEGINNING AT A POINT IN THE SW 1/4 SE 1/4 OF SECTION 30, T6N, R76W, 6th P.M., WHICH BEARS N87°00'20"W 2212.64' FROM THE SOUTHEAST CORNER OF SAID SECTION 30, THENCE S89°59'46"W 600.00'; THENCE N00°00'14"W 600.00'; THENCE N89°59'46"E 600.00'; THENCE S00°00'14"E 600.00' TO THE POINT OF BEGINNING. BASIS OF BEARINGS IS A G.P.S. OBSERVATION. CONTAINS 8.264 ACRES MORE OR LESS.

Exhibit "B"

Attached to and made a part of that certain Surface Use Agreement dated June 1, 2012 between Great Western Oil & Gas Company and Raindance Aquatic Investments, LLC

