

## **SURFACE USE AGREEMENT**

THIS SURFACE USE AGREEMENT ("Agreement") is entered into by and between **Glennon Jesse Welker and Larry J. Welker** ("Owner"), whose address is **P.O. Box 79, Gordonville, MO 63752**, the owner of the surface estate described below (the "Property"), and **Southwestern Energy Production Company** ("Company"), whose address is **2350 N. Sam Houston Pkwy E., Ste 125, Houston, TX 77032** (together "Parties"), with respect to the following described lands (hereinafter, "Lands"):

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

**Section 2: S/2SE/4**

WHEREAS, Company owns the leasehold right to access the Property and use so much of the surface as is reasonably necessary to explore for and produce oil and gas from the leased premises; and,

WHEREAS, Company and Owner desire to enter into this Agreement as a supplement to, but not in derogation of, Company's leasehold rights, including the right to drill future wells in addition to any well enumerated herein;

NOW THEREFORE; in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and the mutual promises and covenants contained herein:

Owner hereby releases and discharges Company, its agents, employees, contractors, and licensees from and against any and all claims by Owner for damages, of whatsoever nature and character, including, but not limited to, diminution in value of the Property, arising from, incident to, or in connection with Company's oil and gas operations ("the Operations") on the Property, so long as such Operations are conducted in accordance with this Agreement.

AND,

Owner hereby grants, demises and conveys such easements and rights-of-way on and across the Property as may be convenient for the Operations. Company shall have the right to drill and operate the well(s) within the areas shown on Exhibit A and A-1, attached hereto and incorporated herein, including directional wells that produce from and drain lands other than the Property, provided such lands are validly pooled with all or any portion of the lands included in Company's oil and gas lease covering the Property, and so long as such locations are permitted locations under the then applicable well spacing regulations of the Colorado Oil and Gas Conservation Commission ("COGCC") or exceptions granted thereto by the Director of the COGCC.

## ADDITIONAL PROVISIONS

1. Company may exercise its rights hereunder for all purposes convenient for Company to perform the Operations, including the right of unimpeded ingress and egress on the designated rights-of-way to access the Well(s), and to install and operate production facilities and pipelines. Company may assign or delegate to a third party the right to install and operate pipelines in order to connect the Well(s) to a gas or liquids gathering system. The access easements granted herein shall be non-exclusive and capable of use by Owner, so long as such use does not interfere with or impair the Operations, and with the permission of Company, which permission shall not be unreasonably withheld.

2. Notwithstanding Owner's release of Company from damage claims, Company shall promptly repair, or compensate Owner for, damage to personal property or to improvements on the Property, such as damage to buildings, fences, gates, culverts, crops, and livestock, or for other such extraordinary losses or damages caused by Company. Any failure to reach mutual agreement with respect to such repair or 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.

3. Owner hereby releases and agrees to hold harmless Company from any and all liability and further payment, including liability claims from third parties, other than what has been provided herein, for damages on or from use upon the Lands that arise from, out of or in connection with the Company'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.

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

4. Owner has requested that all consultation be conducted directly with Owner. Accordingly, Owner shall have the responsibility of notifying any affected tenant, lessee, or other party who may own or have an interest in any crops or surface improvements that could be affected by the Operations. Owner agrees that all damages claimed by a surface tenant, lessee, or other such party resulting from the Operations shall be settled by Owner, and Owner hereby agrees to indemnify and hold Company harmless from and against any such claims.

5. Company agrees to perform all reclamation in accordance with the rules and regulations of the COGCC, unless a variance therefrom is granted by the COGCC upon the request of Owner. Company shall endeavor to keep the well pad(s), the production facilities, and the pipeline and access easements free of weeds and debris and to control erosion.

6. Owner acknowledges that this notice complies with, or hereby waives, all COGCC requirements that it be given advance notice by Company of the proposed Operations. Owner acknowledges receiving from Company a brochure prepared by the COGCC that describes the rights and responsibilities of Owner as a surface owner.

7. Company shall construct and install the well pad(s), roads, pipelines, and production facilities, including, but not limited to, pumping units, tanks, heater/treaters, separators, and emission control units, at the specified surface locations shown on Exhibit A and A-1. Except as



specified herein, Company shall not enter or occupy the surface of the Property except in the event of an emergency or for reasonable incidental and temporary activities, and Company shall be responsible for any physical damage to the Property that may be caused by such emergency or temporary activities.

8. Owner acknowledges and agrees that Company has consulted in good faith with Owner as to its proposed Operations, in accordance with COGCC requirements and Colorado law, or hereby waives such requirements. Owner expressly waives the application of any COGCC setbacks inconsistent with this Agreement, including, but not limited to, setbacks for high density areas and surface lot lines.

(a) Company will provide Owner with the COGCC Form 2A ("Oil and Gas Location Assessment") for the well(s) when submitted to the COGCC, and Company undertakes to ensure that said Form 2A accurately reflects the provisions of this Agreement, including the specified surface locations of facilities shown on Exhibit A and A-1.

(b) Owner agrees not to object to said Form 2A, so long as it is consistent with this Agreement, and hereby waives any right granted by COGCC rule to comment on said Form 2A, to request an extension of the comment period, to request an onsite inspection pursuant to COGCC policy, or to appeal the approval and issuance of the Form 2A, and any related Form 2 ("Application for Permit to Drill").

(c) Owner shall not oppose Company in any agency or governmental proceedings, including but not limited to the COGCC or local government with jurisdiction over the Property, related to Company's operations on the Property, including but not limited to permitting, formation of drilling units, well spacing, drilling, workovers, well deepening, and recompletions, provided that Company's position in such proceedings is consistent with this Agreement.

9. Owner expressly acknowledges and agrees that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligation of Company to reasonably accommodate Owner's use of the surface of the Property, existing or future, and waives any statutory or common law claim to the contrary.

10. Owner hereby consents to the inclusion of site-specific conditions of approval, stipulations, or restrictions related to wildlife habitat protection or mitigation in the COGCC permit(s) for the well(s).

11. Owner agrees to include a note on any annexation, subdivision plat, planned unit development, or other land use designation for which Owner may apply to put successors or assigns on notice that the Property is subject to this Agreement. Owner acknowledges that Company shall have the sole right to record a Memorandum of this Agreement and Owners shall in no circumstances record a copy of the actual Agreement or a copy of the Agreement.

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.

12. In construing this Agreement, no consideration shall be given to the fact or presumption that one party has had a greater or lesser hand in drafting this Agreement than any other party.

13. This Agreement shall be subject to, and construed under, the laws of the State of Colorado, without regard to its conflict of law provisions, and jurisdiction and venue shall be solely in the courts of the State of Colorado, subject to the right of either party to remove a matter to federal court.

14. Each of the undersigned principals of the parties represents and warrants that such person has the requisite corporate or legal authority to bind the respective parties to this Agreement.

15. For official notice and concerning any informational matter relating to the Operations, Owner may contact:

Operator:	Southwestern Energy Production Company
Person to Contact:	Bryce Moore
Address:	2350 N. Sam Houston Pkwy E, Ste 125 Houston, TX 77032
Phone Number:	281-618-4853
Fax:	281-618-2919
Email Address:	bryce_moore@swn.com

16. This Agreement shall extend to, bind and inure to the benefit of, Owner and Company, and their respective heirs, personal representatives, successors, and assigns. The rights and obligations contained herein shall constitute covenants running with the Property.

17. This Agreement shall become effective when it is fully executed and shall remain in full force and effect until Company's leasehold estate expires or is terminated, and Company has plugged and abandoned the well(s) and conducted reclamation in accordance with this Agreement and applicable COGCC rules and regulations, except that any release, discharge or indemnity from and against liability contained herein shall survive the expiration of this Agreement.

18. In the event of alleged default by Company 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 Company, by certified mail, return receipt requested, of the alleged default. Company will have 30 days from receipt of the written notification 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 Company 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 Company be deemed to be a waiver by Owner of its rights or remedies with respect to such breach; however in no event will Company be liable for consequential damages.

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

IN WITNESS WHEREOF, the parties have executed this Agreement this 24<sup>th</sup> day of  
APRIL, 2014.

OWNER:

Glennon Jesse Welker  
By: Glennon Jesse Welker

Larry J. Welker  
By: Larry J. Welker

SOUTHWESTERN ENERGY PRODUCTION COMPANY

Bryce Moore  
By: Bryce Moore