

DEC 08 2013

**EASEMENT, SURFACE DAMAGE AND RELEASE AGREEMENT**

This Easement, Surface Damage and Release Agreement ("**Agreement**") is made and entered into this 8<sup>th</sup> day of November 2013 by and between **Bobby and Patty Arellano** ("**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 (the "**Lands**"):

**Township 5 North, Range 65 West, 6<sup>th</sup> P.M.**

**Section 10: Lot B of Recorded Exemption No. 0961-10-4-RE1553, recorded December 29, 1993 in Book 1419 at Reception No. 2366279 in the records of Weld County, CO, being a part of the NE/4SE/4.**

**Also known as street number: 2460 East 16<sup>th</sup> Street, Greeley, CO 80631**

Additionally, Operator, and/or its affiliates, owns a working interest in valid leases covering the Lands (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 on its Leases (the "**Wells**") within the area located on the Lands approximately depicted on Exhibit "A" (the "**Drill Pad**"). 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, non-exclusive access road ("**Access Road**"), 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 the Lands. Subject to the provisions herein, 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 Wells and Facilities, and for constructing, entrenching, drilling, operating, maintaining, repairing, altering, replacing and removing the Wells and Facilities and appurtenant facilities, for the purposes specified herein, and including the rights of ingress to and egress from the Wells and Facilities across the Lands. The approximate location of the Drill Pad and appurtenant Access road, Wells, and Facilities are shown on the attached Exhibit "A". Operator shall have the right to drill as many wells as it determines from the Drillpad, including wells with bottomhole locations under lands other than 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 Drill Pad, Wells, the Access Road to the Well sites and certain other Facilities to be constructed on the Lands are approximately depicted on Exhibit "A". Material changes may be made by Operator with the consent of Owner, which will not be unreasonably withheld. Operator agrees not to use any more of the surface of the Drill Pad 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. If it is established that any water on Owner's land becomes contaminated due to the operations of Operator, Operator shall be responsible to remedy the contamination and shall hold Owner harmless from any claims for such contamination.

5. **COMPENSATION.** Operator will pay Owner the total sum of \_\_\_\_\_ per measured disturbed acre for the Drill Pad, Wells, Access Road and Facilities. Payment shall be made prior to the commencement of operations to construct the Drill Pad.

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, work-over, recompletion, and maintenance operations associated with the Wells, Facilities and Access Road. 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 Road and the preparation and use of the Drill Pad as provided herein

6. **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 60 days from receipt of the written notification in which to dispute or otherwise respond to the notification before Owner may allege default. If Operator remedies the alleged default within 60 days of Owner's notice, or if the alleged default is of a nature that cannot be remedied within 60 days, then if Operator commences the remedy of the alleged default within that 60 day period and diligently pursues such remedy, then no default shall be deemed to have occurred.

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.

7. **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 shall indemnify, defend and hold Owner harmless from and against any and all damages, claims causes of action, actions, losses, liabilities, fines, costs and expenses (including without limitation reasonable attorneys' fees and expenses and costs of expenses of investigational or trial) resulting from Operators failure to comply with laws, ordinance, rules and regulations or otherwise resulting from or related to negligent operations conducted by Operator under this Agreement, except as provided in Section 19, below.

8. **WAIVER OF 30-DAY NOTICE.** Owner hereby waives the minimum 30-day written notice requirement for operations to begin.

9. **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  
Bobby & Patty Arellano  
2640 E. 16<sup>th</sup> St.  
Greeley, CO 80631

Operator  
Bayswater Exploration & Production  
730 17<sup>th</sup> Street, Suite 610  
Denver, CO 80202  
Phone: (303) 893-2503

10. **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.

11. **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.

12. **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.

13. **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.

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

15. **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.

16. **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.

17. **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.

18. **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.

19. **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) 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.

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) 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. Additionally, road base or gravel shall be laid as needed.

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

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

**Operator:**

**Bayswater Exploration & Production, LLC**

  
Mark Brown, Operations Manager

**Owners (Name and Title):**



Bobby Arellano



Patty Arellano





*Bayswater*

## EXHIBIT "A" Arellano - Meyer



Petroleum Field Services, LLC makes no representations and assumes no responsibility for the information contained herein.

Printed: Nov 08, 2013