

SURFACE DAMAGE AND RELEASE AGREEMENT

This Surface Damage and Release Agreement ("**Agreement**") is made and entered into this 24 day of July, 2014, by and between Christopher J. Frye ("**Owner**"), and Extraction Oil & Gas, 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 ("**Lands**"):

Township 7 North, Range 67 West, 6th P.M.
Section 29: Lot "B" of Recorded Exemption No. 0705-29-3-RE 657, according to Map recorded January 3, 1984 at Reception No. 1951801 of the Records of Weld County, Colorado, being a part of the SW/4 and W/2SE/4.

Operator, and/or its affiliates, owns a working interest in valid leases covering all or portions of the Lands or lands pooled or included in a spacing unit therewith or lands adjacent thereto (each a "**Lease**," collectively, the "**Leases**"). Additionally, Operator may have responsibilities under a Joint Operating Agreement ("JOA") with respect to the Lands.

2. **OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.** Operator desires to drill or cause to be drilled a minimum of six (6) oil and/or gas wells on its Leases (the "**Wells**") within the area located on the Lands depicted on Exhibit "A" and the subsurface locations of which may be under other lands than Owner's Lands. 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, access roads ("**Access Roads**"), 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 a portion of the surface of the Lands.

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 Facilities, and for constructing, entrenching, operating, maintaining, repairing, altering, replacing and removing the Facilities and appurtenant facilities, for the purposes specified herein, and including the rights of Ingress to and egress from the Facilities across 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 Wells, the Access Roads to the Well sites and Facilities to be constructed on the Lands shall be confined to the designated operating areas approximately depicted on Exhibit "A".** Material changes to the designated operating areas may be made by Operator with the consent of Owner, which shall not be unreasonably withheld, but will not unduly interfere with Owner's existing use of the surface estate. The Owner's surface use is proposed to change into a mixed-use master plan generally consistent with the attached Exhibit B. It is also understood and agreed that additional access road and flow lines located outside of the designated operating areas may be necessary for operator's activities and in these circumstances Owner and Operator agree to designate a mutually agreeable location for said access road and flow lines. Access roads will change per approval from the Town of Windsor and Operator and Owner will reasonably accommodate each other. Operator agrees not to use any more of the surface of the Lands than is reasonably necessary to conduct its operations.

The Owner's surface use is proposed to change into a mixed-use master plan generally consistent with the attached Exhibit "B". It is also understood and agreed that additional access road and flow lines located outside of the designated operating areas may be necessary for operator's activities and in these circumstances Owner and Operator agree to designate a mutually agreeable location for said access road and flow lines. Access roads will change per approval from the Town of Windsor and Operator and Owner will reasonably accommodate each other. Operator acknowledges that per Municipal Code Section 16-11-90 the Town of Windsor prohibits any new residential dwelling to be constructed within 350 feet of an existing oil and gas well ("Buffer Zone"). Pursuant to Article 5, hereinafter included, Operator agrees to include the acres impacted by the Buffer Zone, as depicted on Exhibit "A", when calculating the Facility Amount as hereinafter defined.

4. **CONDUCT OF OPERATIONS.** Operator's operations on the Lands will be conducted pursuant to the terms of the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("**COGCC**"), and applicable Colorado statutes and case law.

5. **COMPENSATION AMOUNT.** Prior to the commencement of drilling operations for each such Well, Operator shall pay Owner the sum of [REDACTED] ("Well Amount") for each Well and associated Access Roads shown on Exhibit "A". Operator shall pay Owner in advance for two Wells [REDACTED] within 14 business days from mutual execution of this Agreement and this sum shall be applied to future Amounts due under this Agreement. The sums payable for additional Wells shall be paid prior to the commencement of drilling operations for each such Well. Additionally, prior to the commencement of Facility construction in connection with any of the wells, Operator will pay Owner the sum of [REDACTED] per acre for the Facility site and Buffer Zone approximately depicted on Exhibit "A". The Well Amount and Facility 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 and maintenance operations associated with the Wells and Facilities. 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 roads; and the preparation and use of the wellsite areas. Any subsequent major operations for said Wells (refrac, recompletion, deepening, redrilling, etc.), except in case of emergency, shall require 10 days prior notice to Owner. Operator shall pay Owner all actual damages caused by said subsequent operations.

6. **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:

- (i) 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) During drilling operations the well sites and any pits shall be fenced if requested by Owner. After completion of the Wells and in the event of production, all production tanks shall be bermed. Additionally, 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.

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

- (vi) Operator agrees to fence off the perimeter of the well sites with temporary fencing if reasonably requested by Owner. Operator will also install cattle guards and/or gates where reasonably necessary.

- (vii) Operator agrees not to use any more of the surface of the Lands for Facilities than is reasonably necessary to conduct its operations. Furthermore, Owner and Operator agree that the Facilities will be expanded as needed, at Operator's expense, but the reclaimed Facilities site shall not exceed 10 acres in size without the written consent of Owner.

7. **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.

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

9. **WAIVER OF 30-DAY NOTICE.** Owner hereby waives the minimum 30-day written notice requirement for operations to begin and any other notice or consultation requirements of the COGCC. Without waiving the foregoing, Operator agrees it will provide an initial notice to Owner after it has submitted a request for permit to drill from the COGCC. Subject to this agreement, Owner agrees to allow Operator to locate the Wells anywhere on the surface of the property. By signing this agreement Owner specifically agrees to the location of the Wells identified on Exhibit A and waives any objections to such location.

10. **NOTICE FOR ADDITIONAL OPERATIONS.** Operator will comply with COGCC rules and regulations requiring that advance notice be provided to Owner for subsequent operations on the Wells, including, but not limited to, reworking operations thereto.

11. **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
Christopher J. Frye
8020 SCR 5, Suite 200
Windsor, CO 80528
Phone:
Attn:

Operator
Extraction Oil & Gas, LLC
1888 Sherman Street, Suite 200
Denver, CO 80203
Phone: 720-382-2693

12. **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.

13. **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.

14. **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.

15. **TERMINATION.** This Agreement will terminate concurrently with the applicable oil and gas lease(s) as they relate to Operator(s) and/or its affiliates rights to explore, drill, and produce hydrocarbon from the Lands or lands pooled therewith. **Notwithstanding, if Operator does not commence drilling operations by June 30, 2016, then this Agreement shall terminate and neither party shall have any further rights or obligations hereunder.**

16. **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.

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

18. **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.

19. **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.

20. **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.

21. **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.

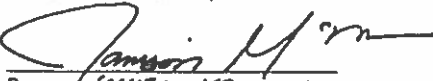
22. **OTHER.**

OWNER ACKNOWLEDGES AND AGREES THAT OPERATOR HAS CONSULTED IN GOOD FAITH WITH OWNER AS TO ITS PROPOSED OPERATIONS IN ACCORDANCE WITH COGCC REQUIREMENTS, OR HEREBY WAIVES SUCH REQUIREMENTS. OWNER EXPRESSLY WAIVES THE APPLICATION OF ANY COGCC SETBACKS INCONSISTENT WITH THIS AGREEMENT.

- A. Operator will provide Owner with the COGCC Form 2A ("Oil and Gas Location Assessment") for OGOA when submitted to the COGCC, and Operator will undertake to ensure that said Form 2A accurately reflects the provisions of this Agreement.
- B. Owner agrees not to object to the Form 2A, so long as it is consistent with this Agreement, and if consistent with this Agreement, Owner hereby waives any right granted by COGCC rule to comment on the 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 Operator in any COGCC or other governmental proceeding related to Operator's Operations, including, but not limited to, permitting, formation of drilling units, well spacing, well density, pooling, drilling, completion, stimulation, re-stimulation, workovers, deepening and recompleting, provided that Operator's position and contemplated undertakings in such proceedings are consistent with this Agreement.

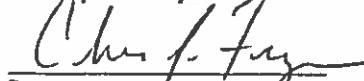
IN WITNESS WHEREOF, the Parties have set their hands, the day and year first written above.

Operator:
Extraction Oil & Gas, LLC

By: 
By: JAMISON MCILWAIN
Title: LANDMAN

By: _____
Title: _____

Owner:
Christopher J. Frye

By: 
By: OWNER
Title: OWNER

By: _____
Title: _____

EXHIBIT "A"

