

SURFACE DAMAGE AND RELEASE AGREEMENT

This Surface Damage and Release Agreement ("**Agreement**") is made and entered into this 4th day of April, 2022, by and between **Glenn C. Leffler and Lee Shannon Leffler, as Joint Tenants** ("**Owner**") with an address of **16367 CR 76, Eaton, Colorado 80615** and **Bayswater Exploration & Production, LLC**, ("**Operator**") with an address of 730 17th Street, Suite 500, Denver, CO 80202; 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 66 WEST, 6TH P.M.

Section 26: Pt W $\frac{1}{2}$ NW $\frac{1}{4}$, being more particularly described as Parcel 3 in that certain Special Warranty Deed Recorded in the County of Weld, State of Colorado on March 22, 2011 at Reception No. 3757647

ALSO KNOWN AS WELD COUNTY PARCEL NO. 070726200014

Operator, and/or its affiliates, owns a working interest in valid oil and gas leases covering all or portions of lands under and adjacent to the Lands and included in a planned spacing unit that covers the NE/4NW/4 and E/2 of Section 26, all of Section 25, Township 7 North, Range 66 West, 6th P.M. and all of Section 30, Township 7 North, Range 65 West, 6th P.M. (each a "**Lease**," collectively, the "**Leases**"). Additionally, Operator may have responsibilities under a Joint Operating Agreement ("JOA") with respect to the Leases.

2. **OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.** Operator intends to drill or cause to be drilled one or more oil and/or gas well or wells to develop its Leases (the "**Wells**"), the surface locations of which shall be on the Lands, as depicted approximately on Exhibit "A" attached hereto, and the subsurface locations of which may be under lands other than Owner's Lands. In order for Operator to construct, drill, complete, produce, maintain, rework, and operate the Well(s) 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 Wells & 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 Wells and Facilities across the Lands in the oil and gas operations of disturbed area on Exhibit A (the "**Operations Area**"). Owner further agrees that Operator may use Access Roads and Facilities constructed under that certain Surface Damage and Release Agreement dated May 3, 2018, by and between Owner and Operator, as necessary to operate the Wells under this Agreement.

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.** 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. 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. Operator agrees not to use any more of the surface of the Lands 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 the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("**COGCC**"), the rules and regulations of the Weld County Oil & Gas Energy Department, and applicable Colorado statutes and case law. It shall not be a violation of this clause or this Agreement for Operator to seek pooling of the planned drilling and spacing unit.

5. **COMPENSATION AMOUNT.** Operator shall pay Owner the sum of [REDACTED] ("**Amount**"), which includes all associated Facilities & Access Roads shown approximately on Exhibit "A". 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 and maintenance operations associated with the Wells and Facilities and shall be paid to Owner prior to spud of any Well on the pad. 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 well site areas. Any subsequent major operations for said Wells, including without limitation refrac, recompletion, deepening, and/or redrilling, except in case of emergency, shall require 10 days prior notice to Owner. Operator shall pay Owner all reasonable actual damages directly caused by said subsequent operations.

[REDACTED]

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/traffic:

- (i) Access Roads will not exceed 20 feet in width and Operator agrees not to apply any aggregate on Access Roads that is greater than one inch in size.
- (ii) Operator will maintain all Access Roads in good repair and condition.
- (iii) Operator will make communication efforts with all vendors and services companies to obey speed restrictions. Operator cannot guarantee all construction, drilling, completion and associated traffic will be channeled in a certain direction. Operator will advise and remind all vendors and service companies of the proximity to houses, lands and/or the neighborhood as a whole.

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.

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

(iii) This agreement shall constitute a waiver of the COGCC's 1000 Series Rules, as applicable, under Rule 1001.c.

C. Drainage & Irrigation:

Operator will install ditches/culverts on the Lands that may be necessary to maintain present drainage and irrigation otherwise affected by its operations on the Lands.

D. Surface / Property damage:

(i) If by reason of the activities of the Operator, including, but not limited to, drilling, completing, equipping, and/or 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 such consultation.

E. Operations/cleanliness:

(i) 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 60 days after the completion of the Wells. No such items will be burned or buried on the Lands. Additionally, the Facilities shall be kept free and clear of all noxious weeds, unsightly growth and trash either during drilling operations or after completion and production. NO ground sterilants will be applied to the Lands to control noxious weeds. The application of Roundup is a preferred method for weed control.

F. Fencing:

(i) During drilling operations, the well sites and any pits shall be fenced if requested by Owner. Operator will also install cattle guards and/or gates where reasonably necessary and requested by Owner. The costs of any such fences, cattle guards, and/or gates shall be paid by the Operator.

G. Sound Walls/ Visual screen:

(i) Operator will provide engineered noise abatement sound walls to comply with COGCC and Weld County requirements when appropriate or as needed.

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 email to thammond@bayswater.us, and by certified mail, return receipt requested, of the alleged default. Operator will have 30 days from receipt of the written notification in which 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 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 COGCC NOTICES AND OTHER REGULATORY MATTERS.** Operator will consult in good faith with Owner prior to commencing operations on the Lands with heavy equipment. At Owner's request, Operator will provide Owner with a copy of the COGCC Form 2A ("Oil and Gas Location Assessment") pertaining to the Lands upon submission by the Operator to the COGCC. Owner agrees not to object to the Operator's proposed operations, so long as it is consistent with this Agreement, and hereby waives and/or agrees to execute any written waivers for the following notices and consultations:

- (i) Rule 303.e.(1).B.: Notice of Completeness Determination to Surface Owner;
- (ii) Rule 306.c.(1): Notice of Recommended Decision to Surface Owner;
- (iii) Rule 309.b.(2): Consultation with Surface Owner;
- (iv) Rule 309.e.(4).C.; Consultation with Colorado Parks & Wildlife;
- (v) Rule 312.e.; Subsequent Operations on Existing Wells;
- (vi) Rule 314.f.(1).C.ii. Comprehensive Area Plans: Public Review Process: Notice: Surface Owner;
- (vii) Rule 412.a.: Statutory Notice to Surface Owners;
- (viii) Rule 412.b.(6): Move-In, Rig-Up Notice;
- (ix) Rule 435.a.(3): Plugging Notice;
- (x) COGCC 500 Series Notices;

(xi) COGCC 1000 Series Notices; and

(xii) 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 Form 2 Application for Permit to Drill from the COGCC.

A. Owner shall not protest, petition, intervene, or otherwise object to any Oil and Gas Development Plan (OGDP), Application for Permit to Drill (Form 2), and/or Oil and Gas Location Assessment (Form 2A, Form 2B and Form 2C), filed by Operator with the COGCC, or to any Weld County Oil & Gas Location Assessment (WOGLA) filed with the Weld County Oil & Gas Energy Department. Subject to this Agreement, Operator may locate Wells and Facilities anywhere within the area designated on Exhibit "A".

B. Owner hereby waives any right granted by COGCC rule to comment on the OGDP, Form 2A, 2B and 2C to request an extension of the comment period, to request an onsite inspection pursuant to COGCC policy, to consult with CPDHE, and/or to appeal the approval and issuance of the OGDP, Forms 2A, 2B or 2C and any related Form 2.

C. Owner shall not oppose Operator, its agents, consultants, attorneys, successors and assigns in any COGCC or other administrative or governmental proceedings related to Operator's operations, including but not limited to permitting, formation of drilling units, well spacing, well density, OGDPs, 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. Owner will provide Operator, its agents, consultants, attorneys, successors and assigns with any and all written support they may reasonably require to obtain permits, approvals, and/or waivers from the COGCC or other applicable governmental body.

D. Owner 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, occupied buildings, and surface property lines, among other things. Owner hereby waives its right to object to the location of a Well, Access Road or Facility on the basis of setback requirements in the rules and regulations of the COGCC, including, but not limited to, the setbacks from buildings, public roads, surface property lines, Residential Building Units and other requirements of Rules 604.a. For the operations contemplated by this Agreement, Owner hereby waives all Rule 604.a. setback distances, as required by COGCC rules and regulations.

E. Owner grants consent for Operator to exceed the noise levels in Table 423-1 of COGCC Rules as provided in Rule 423.b.(5), and shall not file a complaint pursuant to Rule 423.b.(8).

F. Owner shall not request that Operator orient new Oil and Gas Facilities in the manner described in COGCC Rule 425.a.(2).

G. Owner understands that Operator may provide a copy of this Agreement to the COGCC along with a Form 2, Form 2A, or in order to obtain a permit, waiver, exception location, or variance from the COGCC rules or from a local jurisdiction.

10. WAIVER OF WELD COUNTY NOTICES AND OTHER REGULATORY MATTERS.

11.

Operator will consult in good faith with Owner prior to commencing operations on the Lands with heavy equipment. Owner agrees not to object to the Operator's proposed operations, so long as it is consistent with this Agreement, and hereby waives and/or agrees to execute any written waivers for the following notices and consultations:

Sec. 21-5-315:Pre-application meeting and 1041 WOGLA notice;

Sec. 21-5-355:Required notification;

Sec. 21-5-390:Transferability of 1041 WOGLA Permits;

12. **NOTICE FOR ADDITIONAL OPERATIONS.** Except as provided herein, 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.

Notice by either Party will be promptly given, orally if possible (with the exception of the default notice described in Paragraph 7), with subsequent mandatory written confirmation sent by email and 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:

Glenn C. and Lee Shannon Leffler
16367 CR 76
Eaton, CO 80615
Phone: 970-381-2453
Attn: Mr. Glenn Leffler

Operator:

Bayswater Exploration & Production, LLC
730 17th St., Suite 500
Denver, CO 80202
Phone: (303) 893-2503
Attn: Mr. Tyler Hammond
Email: thammond@bayswater.us

13. **INDEMNIFICATION.** Operator shall protect, indemnify, and hold harmless Owner from all losses, claims, damages, judgments, fines or liabilities ("Claims"), relating to the Lands to the extent such claims arise out of Operator's Operations located on the Lands; provided, however, Operator will not protect, indemnify, and hold harmless Owner from any Claims arising from conditions which existed on the Lands as of the Effective Date. Owner shall fully protect, defend, indemnify and hold harmless Operator, from any and all Claims relating to the Lands that arise out of Owner's use of the Lands. Notwithstanding the forgoing, no Party shall be liable for, or be required to pay for, special, punitive, exemplary, incidental, consequential or indirect damages to any other Party for any claim arising from or related to this Agreement.

14. **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.

15. **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. Operator may also submit a redacted form of this Agreement, as necessary and required by the COGCC.

16. **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.

17. **TERMINATION.** This Agreement will terminate concurrently with the Lease(s) as they relate to Operator(s) and/or its affiliates rights to explore, drill, and produce hydrocarbon from the Lands, lands pooled therewith or lands adjacent thereto. This Agreement shall also terminate in the event Operator fails to spud a well on the Lands within five (5) years from the date of this Agreement. In the event of termination of this Agreement, Operator agrees to record a notice of termination in the real estate records of Weld County, Colorado.

16. **MEMORANDUM.** Either Party may record a Memorandum of this Agreement with the Weld County Clerk and Recorder.

17. **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 and COGCC Rules.

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

19. **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.

20. **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.

21. **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.

22. **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.

Signature Page to follow

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

OPERATOR:

Bayswater Exploration & Production, LLC

A handwritten signature in blue ink, appearing to read 'Tyler Hammond', written over a horizontal line.

By: Tyler Hammond
Title: District Landman

OWNER:

Glenn C. and Lee Shannon Leffler

A handwritten signature in blue ink, appearing to read 'Glenn C. Leffler', written over a horizontal line.

By: Glenn C. Leffler

A handwritten signature in blue ink, appearing to read 'Lee Shannon Leffler', written over a horizontal line.

By: Lee Shannon Leffler

EXHIBIT "A"

OPERATIONS AREA

To Surface Damage and Release Agreement between Glenn C. and Lee Shannon Leffler ("Owner"), and Bayswater Exploration & Production, LLC ("Operator").

LEGAL DESCRIPTION:

TOWNSHIP 7 NORTH, RANGE 66 WEST, 6TH P.M.

Section 26: Pt W $\frac{1}{2}$ NW $\frac{1}{4}$, being more particularly described as Parcel 3 in that certain Special Warranty Deed Recorded in the County of Weld, State of Colorado on March 22, 2011 at Reception No. 3757647

ALSO KNOWN AS WELD COUNTY PARCEL NO. 070726200014

