



00257840

SURFACE USE AGREEMENT

RECEIVED

SEP 13 1993

COLO. OIL & GAS CONS. COMM.

THIS SURFACE USE AGREEMENT ("Agreement") is dated the 15th day of May, 1992, by and between Visintainer Sheep Company, a Colorado limited partnership, its successors and assigns ("Grantor") and Jack J. Grynberg, and his heirs, representatives, successors and assigns ("Grantee").

RECITALS

WHEREAS, Grantee is the lessee under the following oil and gas leases: (i) State of Colorado Oil and Gas Lease 85-1754-S covering lands in Section 36, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO; (ii) United States Oil and Gas Lease C-0123066 covering lands in Sections 21, 22, 26, 28 and 35 in Township 9 North, Range 91 West, 6th P.M., Moffat County, CO; (iii) United States Oil and Gas Lease C-1727, covering lands in Sections 14, 24 and 25 in Township 9 North, Range 91 West, 6th P.M., Moffat County, CO; and (iv) United States Oil and Gas Lease C-0125609 covering lands in Section 23, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO (collectively, the "Subject Leases"); and

WHEREAS, Grantor owns or controls by lease, permit or agreement certain of the lands covered by the Subject Leases and numerous other lands and may, in the future, own or control by lease, permit or agreement additional lands (collectively, "Grantor's Lands"); and

WHEREAS, Grantor represents, but does not warrant, that it is the owner of Lots 14, 15 and 17 (the N/2SW/4 and SE/4SW/4) in Section 30 and Lots 13, 14, 15, 18, 19 and 20 (the SE/4 and E/2SW/4) in Section 31 in Township 9 North, Range 90 West, 6th P.M., Moffat County, CO, on which private roads belonging to Grantor exist; and

WHEREAS, Grantee desires access at certain times to the Subject Leases via Grantor's existing private roads on Lots 14, 15 and 17 (the N/2SW/4 and SE/4SW/4) in Section 30 and Lots 13, 14, 15, 18, 19 and 20 (the SE/4 and E/2SW/4) in Section 31 in Township 9 North, Range 90 West, 6th P.M., Moffat County, CO; and

WHEREAS, Grantee further desires to conduct oil and gas operations on Grantor's Lands covered by the Subject Leases; and

WHEREAS, Grantor and Grantee have previously entered into numerous agreements, a list of which is attached as Exhibit A and incorporated herein by this reference (the "Previous Agreements"), concerning, among other things, Grantee's access to the Subject Leases and operations on Grantor's Lands covered by the Subject Leases and have also entered into that certain Settlement Agreement dated May 15, 1992, a true copy of which is attached hereto as Exhibit B and incorporated herein by this reference (the "Settlement Agreement"); and

RECEIVED

SEP 13 1993

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

COLO. OIL & GAS CONS. COMM.

WHEREAS, Pursuant to the Settlement Agreement, Grantee has paid Grantor the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) by May 18, 1992, which Grantor may use towards the cost of constructing reservoirs; and

WHEREAS, Pursuant to the Settlement Agreement, Grantor has allowed Rocky Mountain Natural Gas Company access in Section 36, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO for the pipeline construction required to connect Grantee's wells in Sections 35 and 36, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO which were not connected; and

WHEREAS, Pursuant to the Settlement Agreement, Grantor has released Rocky Mountain Natural Gas Company from any access restriction during each May in which Grantee desires to operate on the Subject Leases; and

WHEREAS, Pursuant to the Settlement Agreement, Grantor and Grantee now desire to execute a new agreement concerning, among other things, Grantee's access to the Subject Leases and operations on Grantor's Lands covered by the Subject Leases under the limitations and conditions herein contained;

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the promises and covenants set forth herein and in the Settlement Agreement, Grantor and Grantee hereby agree as follows:

1. Grantor and Grantee expressly affirm and adopt each and every provision of the Settlement Agreement and each and every provision of the Previous Agreements, except as expressly modified by the Settlement Agreement and this Agreement, as if they had been set forth herein.

2. Subject to the terms and conditions contained herein, Grantor grants to Grantee the right to use the surface of Grantor's Lands covered by the Subject Leases only.

3. Subject to the terms and conditions contained herein, Grantor grants to Grantee access via Grantor's existing private roads on Lots 14, 15 and 17 (the N/2SW/4 and SE/4SW/4) in Section 30 and Lots 13, 14, 15, 18, 19 and 20 (the SE/4 and E/2SW/4) in Section 31 in Township 9 North, Range 90 West, 6th P.M., Moffat

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

RECEIVED
SEP 13 1993
COLORADO OIL & GAS CONS. COMM.

County, CO for the purposes of operating on the Subject Leases at Grantee's sole risk and expense; provided, however, Grantee shall not use such access from May 1 to June 15 each year. During May 1 to June 15, Grantee shall have access to the Subject Leases on public roads only.

4. Grantee shall suspend all of his operations on all of Grantor's Lands during the lambing and calving season, which shall be no longer than May 1 to May 31 of each year, unless Grantee pays Grantor the sum of Five Thousand Dollars (\$5,000.00) by April 30 of each year for each May in which he desires to operate. Payment shall be timely made if mailed by certified U.S. Mail, postmarked not later than April 28 of the year in question to the address listed below for Grantor. Funds may also be wire transferred to the account of Grantor or hand delivered to Grantor on or before April 30 of the year in question. This payment will allow Grantee to produce his wells and conduct operations on the Subject Leases pursuant to the Settlement Agreement and this payment shall also be in lieu of claims by Grantor for any losses to its lamb crop that May. This payment shall not be due for Grantee's operations during May, 1992 and Grantor will make no claim for losses to its lamb crop for May, 1992. In the event an emergency requiring Grantee to enter on Grantor's Lands should arise during any May in which Grantee elects not to operate, Grantee shall notify Grantor of the emergency before entering the property.

5. Notwithstanding any other terms to the contrary contained herein, from May 1 to June 15 each year and during the regular rifle hunting seasons for deer and elk each year, as determined by the Colorado Division of Wildlife, or its successor agency, Grantee shall not conduct any well drilling or completion operations, including, without limitation, fracturing wells, on Grantor's Lands.

6. Grantee will forego the installation or relocation of pipelines in Sections 24, 25 and 26, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO from May 1, 1992 through May 31, 1992.

7. During each May that Grantee desires to operate on Grantor's Lands, light trucks only will be used in connection with Grantee's operations; provided, however, Grantee may use heavy trucks to deliver production equipment (i.e. tanks and separators) to wells located in Section 36, Township 9 North, Range 91 West,

RECEIVED

SEP 13 1993

COLORADO OIL & GAS CONS. COMM.

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

6th P.M., Moffat County, CO during May, 1992.

8. Grantee, at his sole risk and expense, shall purchase and install by April 30, 1993 an electric fence complete with all components built to the same specifications as the existing electric fence on Grantor's Lands, except that the electric fence required hereunder shall be a seven-wire electric fence while the existing electric fence is a five-wire electric fence. The fence will be no more than five (5) miles long and will be located on the following lands:

Start at the SE corner of the SE/4NE/4 of Section 31, Township 9 North, Range 90 West, 6th P.M., Moffat County, CO, then head westerly until a point in the E/2NE/4 of Section 36, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO, then head northerly, following the ridge, to the road in the NE/4SE/4 of Section 25, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO, then follow the road to the cattleguard located just after the entrance to the #3-25 well, then head northwesterly on the northeast side of the road to the section corner of Sections 13, 14, 23 and 24, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO.

An electric gate will be installed where the fence crosses the road in the NE/SE/4 of Section 25, Township 9 North, Range 91 West, 6th P.M., Moffat County, CO. Without limiting the generality of the foregoing, see Exhibit C, attached hereto and made a part hereof, (the map that is attached as Exhibit A to the "Points of Settlement" contained in the file of the Moffat County District Court, State of Colorado, 92CV30) as to specifications and location of the fence. Upon the satisfactory completion of the fence to the specifications described herein, Grantor will acknowledge the satisfactory completion in writing and will assume ownership and responsibility for the maintenance of the fence.

9. Grantee shall maintain Grantor's private roads on Lots 14, 15 and 17 (the N/2SW/4 and SE/4SW/4) in Section 30 and Lots 13, 14, 15, 18, 19 and 20 (the SE/4 and E/2SW/4) in Section 31 in Township 9 North, Range 90 West, 6th P.M., Moffat County, CO, as required in the Previous Agreements, including, without limitation, restoring ditches on the sides of the roads and repairing water bars.

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

RECEIVED

SEP 13 1993

COLORADO OIL & GAS CONS. COMM.

10. Grantee agrees to construct and maintain new cattleguards on concrete bases, built to Grantor's specifications, on any access roads to Grantee's wells on Grantor's Lands if such roads cross a fence line.

11. Grantee agrees to construct and maintain any and all access roads to Grantee's wells on Grantor's Lands in accordance with BLM standards, including without limitation, installing culverts and providing for adequate drainage.

12. Grantee agrees to thoroughly clean up and remove trash and debris, including without limitation, filters, styrofoam, plastic, thread protectors, barrels and all other trash and debris left by Grantee's employees or agents and their employees on Grantor's Lands. Grantee agrees that such clean-up shall be ongoing.

13. Grantee agrees to revegetate the well sites for Grantee's wells on Grantor's Lands and to carefully monitor such revegetation and reseed as many times as necessary to satisfy current BLM specifications for well site restoration.

14. Grantee agrees to repair and replace, if necessary, all cattleguards and fences damaged by Grantee's employees or agents and their employees. All such repairs and replacements shall be made to Grantor's specifications and subject to Grantor's approval. If any such repair Grantee undertakes involves repairing fences, Grantee agrees to set all standard fence posts at least three feet deep, and set all standard corner or gate posts at least four feet deep.

15. Grantee agrees to conduct oil and gas operations on Grantor's Lands in a manner that will prevent any significant adverse effects on Grantor's operations which may be caused by Grantee's activities; and in keeping with this requirement, Grantee shall, among other things, take reasonable steps to reduce noise from compressors installed on wells operated by Grantee and maintain all access roads, including grading, so that Grantor, in Grantor's sole discretion, can conduct its operations without hindrance or damage to equipment. Also, in keeping with this requirement and without limiting the foregoing, Grantee agrees as follows:

(a) All vehicles connected with Grantee's operations on

RECEIVED

SEP 13 1993

COLORADO OIL & GAS CONS. COMM.

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

Grantor's Lands shall travel at such a speed as to minimize dust and danger to livestock and people. In no event shall such vehicles be allowed to exceed a maximum speed limit of twenty-five (25) miles per hour on Grantor's Lands; provided, however, during each May in which Grantee desires to operate on Grantor's Lands, all vehicles connected with Grantee's operations shall not exceed a maximum speed limit of fifteen (15) miles per hour on Grantor's Lands.

(b) Grantee shall restore any existing reservoirs located near Grantee's wells on Grantor's Lands to their current capacity and quality in the event pollution or sediment washes into any of them from the locations of Grantee's wells.

(c) Grantee shall water the roads from the county roads to Grantee's wells on the Subject Leases to abate dust caused by Grantee's activities when necessary for the protection of human and livestock health and to prevent damage to forage.

16. Grantee shall, prior to surveying and staking, give Grantor written notice of when and where Grantee intends to survey and stake well locations on Grantor's Lands and Grantee shall not build a road to a well location or build a well location on Grantor's Lands unless Grantor has received from Grantee two weeks' prior written notice of where the road and the well will be located.

17. Grantee agrees to pay Grantor for any actual damages incurred by Grantor as a result of Grantee's operations. In lieu of actual damages for loss of sheep during any May in which Grantee does not operate and, in any event, for the months of June through April in all years, Grantee agrees to pay Grantor the sum of One Hundred Dollars (\$100.00) per sheep for all sheep killed as a result of Grantee's operations on Grantor's Lands, including without limitation, any sheep killed by vehicles connected with Grantee's operations, or killed because of inadequate fencing around Grantee's well sites.

18. Notwithstanding any other terms contained in the Previous Agreements to the contrary, Grantor agrees that Grantee may bury Grantee's pipelines on the Subject Leases.

19. Grantee agrees to indemnify and hold harmless Grantor,

RECEIVED

SEP 13 1993

COLO. OIL & GAS CONS. COMM.

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

its invitees, partners, officers, employees, tenants, lessees, agents, consultants and contractors and their employees and agents from and against any and all claims, demands, liabilities, costs, fines, civil penalties, judgments, expenses, including without limitation, court costs and reasonable attorneys' fees, damages and losses of whatsoever kind or nature ("Claims") that relate to or are attributable to the presence of Grantee and his employees, agents and contractors and their agents and employees on Grantor's Lands, including without limitation, Claims with respect to the obligations assumed by Grantee under this Agreement, damage to or loss of property, natural resources or the environment or bodily injury to, illness of or death of any persons.

20. Grantee agrees to pay all Grantor's attorneys' fees and expenses incurred by Grantor in connection with any dispute between Grantee and third parties arising out of any agreement or proposed agreement concerning operations by Grantee during the month of May on Grantor's Lands.

21. No amendments or modifications hereof shall be made, or be deemed to have been made, unless in writing and executed by Grantor and Grantee.

22. Grantor and Grantee agree that time is of the essence with respect to all terms and conditions of this Agreement.

23. Grantor and Grantee agree that this Agreement shall be governed by, construed in and enforced in accordance with the laws of the State of Colorado, and the state and federal courts located in the State of Colorado shall be the sole venue for the resolution of any disputes arising hereunder, unless both parties agree in writing to attempt to resolve any such disputes by arbitration before resorting to the courts.

24. Grantor and Grantee agree that in the event either of the parties hereto fails to perform any of its obligations hereunder or in the event a dispute arises concerning the meaning or interpretation of any provisions hereunder, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs, reasonable attorneys' fees and expenses and reasonable experts' fees and expenses.

25. In the event any of the terms and conditions contained in this Agreement are in conflict or inconsistent with the terms and

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

RECEIVED
SEP 13 1993
COLO. OIL & GAS CONS. COMM.

conditions contained in the Settlement Agreement, the terms and conditions of the Settlement Agreement shall prevail.

26. Grantor and Grantee agree that this Agreement shall be binding upon and inure to the benefit of their respective heirs, successors, representatives and assigns.

27. This Agreement may be executed in counterparts and all counterparts shall be considered part of one Agreement binding on both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date above first written.

GRANTOR:

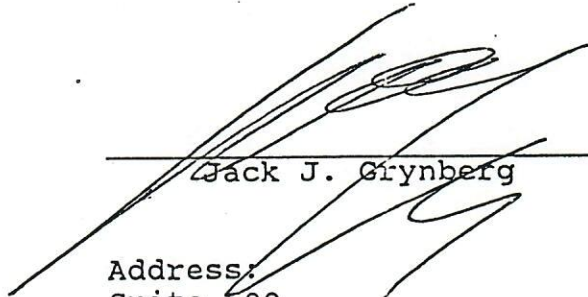
VISINTAINER SHEEP COMPANY,
a Colorado limited partnership

By: _____

Louis Dean Visintainer,
Managing General Partner

Address:
P. O. Box 395
Craig, CO 81626

GRANTEE:



Jack J. Grynberg

Address:
Suite 500
5000 S. Quebec Street
Denver, CO 80237

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

RECEIVED

SEP 13 1993

COLORADO OIL & GAS CONS. COMM.

conditions contained in the Settlement Agreement, the terms and conditions of the Settlement Agreement shall prevail.

26. Grantor and Grantee agree that this Agreement shall be binding upon and inure to the benefit of their respective heirs, successors, representatives and assigns.

27. This Agreement may be executed in counterparts and all counterparts shall be considered part of one Agreement binding on both parties hereto.

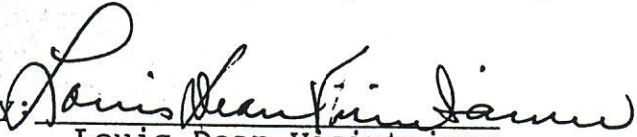
IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date above first written.

GRANTOR:

GRANTEE:

VISINTAINER SHEEP COMPANY,
a Colorado limited partnership

By:


Louis Dean Visintainer,
Managing General Partner


Jack J. Grynberg

Address:

P. O. Box 395
Craig, CO 81626

Address:

Suite 500
5000 S. Quebec Street
Denver, CO 80237

MAY 15, 1992
SURFACE USE AGREEMENT
(continued)

RECEIVED

SEP 13 1993

COLO. OIL & GAS CONS. COMM.

STATE OF COLORADO)
) ss.
COUNTY OF MOFFAT)

The foregoing instrument was acknowledged before me this 28th day of July, 1992, by Louis Dean Visintainer as Managing General Partner of Visintainer Sheep Company, a Colorado limited partnership.

Witness my hand and official seal.

My commission expires:

March 6, 1995

Jane M. Richmond
Notary Public



STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 17th day of JULY, 1992, by Jack J. Grynberg.

Witness my hand and official seal.

My commission expires:

MARCH 13, 1994

Linda L. Magnuson
Notary Public
LINDA L. MAGNUSON

EXHIBIT A

Attached to and made a part of that certain Surface Use Agreement dated May 15, 1992 by and between Visintainer Sheep Company and Jack J. Grynberg

1. April 4, 1988 Right-of-Way Agreement
2. June 14, 1988 Agreement
3. June 30, 1988 Agreement
4. October 4, 1988 Federal Well No. 3-25 Access Agreement
5. May 31, 1989 Access Agreement
6. August 1, 1989 Pipeline Right of Way Agreement
7. July 16, 1990 Access Agreement
8. August 20, 1990 Pipeline Right of Way Agreement
9. October 15, 1990 Access Agreement
10. May 24, 1991 Access Agreement
11. August 14, 1991 Access Agreement
12. October 14, 1991 Access Agreement #3-36 Well
13. October 14, 1991 Pipeline Access Agreement
14. October 14, 1991 Access Agreement #1-36 Well
15. October 14, 1991 Amendment to Access Agreement
16. November 4, 1991 Amendment to Access Agreement #3-36 Well
17. November 4, 1991 Access Agreement #8-25, #9-25, #2-35, #4-36, #5-36, #6-36 and #7-36 Wells
18. November 18, 1991 Amendment to Access Agreement #8-25, #9-25, #2-35, #4-36, #5-36, #6-36 and #7-36 Wells
19. February 4, 1992 Amendment to Access Agreement
20. February 4, 1992 Access Agreement #6-24, #7-36, #8-36, #10-36, #11-36 and #12-36 Wells