

**MEMORANDUM OF AGREEMENT AND RIGHT-OF-WAY**

STATE OF COLORADO           )  
  )  
COUNTY OF GARFIELD        )

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, on the 6<sup>th</sup> day of November, 2009, a Surface Use Agreement ("Agreement") was made and entered into by and between Thomas F. Latham and Ginger L. Latham, whose address is P.O. Box 66, DeBeque, CO 81630, as ("Surface Owner") and Berry Petroleum Company, a Delaware corporation, whose address is 1999 Broadway, Suite 3700, Denver, Colorado 80202, as ("Operator").

WHEREAS, Surface Owner owns the following described real property in Garfield County, Colorado (the "Property"), legally described as:

Township 6 South, Range 97 West of the 6th P.M.  
Section 2: Lot 13, N/2SE/4

WHEREAS, Operator is the owner of an interest in an oil and gas lease granting Operator certain rights to minerals on the Property.

WHEREAS, in said Agreement Surface Owner grants Operator the right to use the Property in connection with the drilling, construction, completion, re-completion, reworking, re-entry, production, maintenance and operation of the well(s) and one (1) well pad, and for the construction, maintenance and use of an access road and a pipeline to be located on the Property.

It is the purpose hereof to give record notice of such Agreement. In consideration of the foregoing and the consideration paid for execution of Agreement, the undersigned Surface Owner does hereby grant, let and demise unto Operator the right to use the Property upon all of the terms and conditions set forth in the Agreement.

This Agreement shall may be executed in two or more counterparts which together shall constitute a final agreement.

[Signature and acknowledgment page follows]

IN WITNESS WHEREOF, this Agreement is executed as of the Date first above written.

Surface Owner:

By: Thomas F. Latham  
Thomas F. Latham

By: Ginger L. Latham  
Ginger L. Latham

Operator:

Berry Petroleum Company, a Delaware corporation

By: \_\_\_\_\_  
Daniel G. Anderson, Vice President

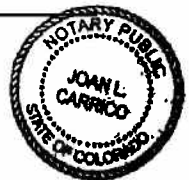
STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF MESA        )

The foregoing instrument was acknowledged before me on this 6<sup>th</sup> day of November, 2009 by Thomas F. Latham and Ginger L. Latham.

Witness my hand and official seal.

My commission expires: 10-24-10

Joan L. Carrico  
Notary Public



STATE OF COLORADO        )  
                                  ) ss.  
CITY AND COUNTY OF DENVER    )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of November, 2009 by Daniel G. Anderson as Vice President of Berry Petroleum Company.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, this Agreement is executed as of the Date first above written.

Surface Owner:

By: \_\_\_\_\_  
Thomas F. Latham

By: \_\_\_\_\_  
Ginger L. Latham

Operator:

Berry Petroleum Company, a Delaware corporation

By: \_\_\_\_\_  
Daniel G. Anderson, Vice President

*DLG*  
*am*  
*CS*

STATE OF COLORADO     )  
                                      ) ss.  
COUNTY OF MESA         )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of November, 2009 by Thomas F. Latham and Ginger L. Latham.

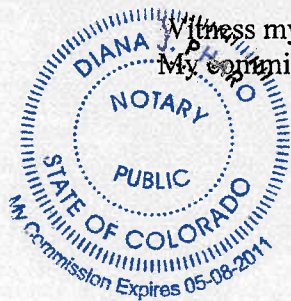
Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF COLORADO     )  
                                      ) ss.  
CITY AND COUNTY OF DENVER     )

The foregoing instrument was acknowledged before me on this 6th day of November, 2009 by Daniel G. Anderson as Vice President of Berry Petroleum Company.

Witness my hand and official seal.  
My commission expires: 5-8-2011



Diana J. Pharo  
Notary Public