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Linda Daley
Laplata County Clerk

RECEIVED

JAN 14 2009

COGCC

4

MEMORANDUM OF
SURFACE USE AGREEMENT

RECEIVED JUL 05 2007



WHEREAS on the 15th day of May,
2007 Danny Jaques and Barbara L Jaques husband and wife ("Owner") entered into a Surface
Damage and Release Agreement with Black Hills Exploration & Production Inc, ("Operator"),
covering the below described lands in La Plata County Colorado

Township 33 North, Range 8 West, 6th P M
Section 34 NE/4, N/2 SE/4

LIMITED, HOWEVER, TO THE FOLLOWING AREA WITHIN THE ABOVE
DESCRIBED PROPERTY

Two 3 to 4 acre parcels of land located in Section 34, being more particularly described
on the survey plat attached hereto as Exhibit "A"

WHEREAS said agreement provides for, among other things, the right to enter upon and
use the Owners' property for the purpose of erecting and maintaining well site location(s) for one
(1) or more wells on Owners' land to maintain the well site location(s) Said agreement sets forth
payment of specific amounts to cover damages resulting from the construction, use and
maintenance of the well site location(s) Said agreement, with all of its terms, conditions,
covenants and other provisions, is referred to and incorporated into this Memorandum for all
purposes

NOW THEREFORE this Memorandum is placed of record for the purpose of giving
notice of the Surface Damage and Release Agreement

Owner:

Danny Jaques
Barbara L Jaques

Operator

Black Hills Exploration & Production, Inc

By

Carleton L Ekberg
Carleton L Ekberg
Director of Land

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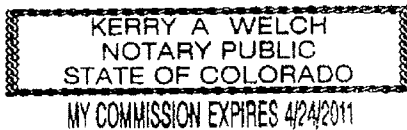
ACKNOWLEDGEMENTS

STATE OF COLORADO)
) ss
COUNTY OF JEFFERSON)

On this 31st day of May, 2007, before me personally appeared Carleton Ekberg, known to me to be the Director of Land of BLACK HILLS EXPLORATION & PRODUCTION, INC and that he executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written

My Commission Expires _____



Notary Public Kerry A. Welch
Address 520 N. Main St.
Lakewood CO 80226

STATE OF COLORADO)
) ss
COUNTY OF LA PLATA)

On this 15 day of June, 2007, before me personally appeared Danny Jaques and Barbara L. Jaques, known to me to be the persons described in and who executed the foregoing instrument, and who acknowledged to me that they executed the same

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written

My Commission Expires 6-21-09

M. B. Brown
Notary Public _____
Address _____

RECEIVED

JAN 14 2009

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EXHIBIT "A"

Attached to and made a part of that certain Memorandum of Surface Use Agreement dated MAY 15
2007, between Danny Jaques and Barbara L. Jaques, husband and wife, "Owner", and
 Black Hills Exploration and Production, Inc., "Operator"

PRODUCER, BLACK HILLS EXPLORATION & PRODUCTION

WELL NAME UTE No 34-14

SURFACE FOOTAGE 2124 FNL 1677 FEL BOTTOM HOLE FOOTAGE, 739 FNL 669 FEL ELEVATION 7249

SEC 34 TWN 33-N RNG 08-W NMPM, COUNTY LA PLATA STATE COLORADO

N 89°20'35" W 2656.35' (M)

FD 3 1/4" ALUMINUM CAP
B.L.M. 1998

FD 3 1/4" ALUMINUM CAP
B.L.M. 1998

FD 3 1/4" ALUMINUM CAP
B.L.M. 1998

FD 3 1/4" ALUMINUM CAP
S.U.I.R. 1998

739'

669'

2124'

1677'

1301.95' (M)

1297.75' (M)

N 01°21'38" W

N 00°43'14" E

34

13

12

11

10

9

8

7

6

5

4

3

2

1

0

1000

SCALE 1"=1000'

LEGEND

- 15th CORNER DESCRIPTION
- SEC CORNER DESCRIPTION
- QTR CORNER DESCRIPTION
- CALCULATED CORNER DESCRIPTION
- STAKED WELL LOCATION

NOTES

- 1) BASIS OF BEARING BETWEEN FOUND MONUMENTS AT THE NORTHEAST CORNER AND THE NORTH QUARTER CORNER OF SECTION 34 T-33-N, R-8-W, N M P M LINE BEARS N 89°20'35" W A DISTANCE OF 2656.35 FEET, PER G P S MEASUREMENT P D O P < 6
- 2) BASIS OF ELEVATION N A V D 1988
- 3) DATE OF SURVEY JULY 11, 2008
- 4) SURFACE USE FOR THE AREA SURROUNDING THIS WELL FLAG IS SO UTE TRIBAL LANDS FOR POSSIBLE GRAZING
- 5) THERE PRESENTLY EXISTS NO VISIBLE IMPROVEMENTS WITHIN 200 FEET OF THIS WELL FLAG LOCATION OTHER THAN THOSE AS SHOWN HEREON

NOTE

DAGGETT ENTERPRISES, INC. IS NOT LIABLE FOR UNDERGROUND UTILITIES OR PIPELINES. UTILITY NOTIFICATION CENTER OF COLORADO TO BE NOTIFIED 48 HOURS PRIOR TO EXCAVATION OR CONSTRUCTION

THIS IS TO CERTIFY THAT THE ABOVE PLAT WAS PREPARED FROM FIELD NOTES OF ACTUAL SURVEYS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND THE SAME ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF

ROY B. RUSH, L.S. No 20693
 STATE OF COLORADO
 COUNTY OF LA PLATA

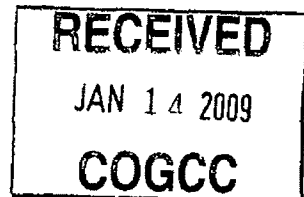
02-13-07
 DATE

Daggett Enterprises, Inc.
 Surveying and Oil Field Services
 P O Box 16088 Farmington, NM 87401
 Phone (505) 326-1772 Fax (505) 328-6019
 COLORADO L.S. No 20693

REVISION

NO.	DATE	REVISION BY
1	11/10/08	B.L.
2	02/12/07	A.O.

DRAWN BY B.L.
 CHECKED BY B.L.
 DATE 08/08/08



SURFACE USE AGREEMENT

This Surface Use Agreement (this "Agreement") is made and entered into this 15th day of May, 2007, by and between Danny Jaques and Barbara L. Jaques, husband and wife ("Owner"), whose address is 6780 County Road 318, Ignacio, Colorado 81137, and Black Hills Exploration & Production, Inc. ("BHEP"), whose address is 350 Indiana Street, Suite 400, Golden, Colorado 80401

BHEP has the right to drill two oil and gas wells (the "Well(s)") on the Lands ("Lands") in La Plata County, Colorado described below

Township 33 North, Range 8 West, N M P M
Section 34 NE/4, N/2 SE/4

BHEP intends to drill one Well on the Lands at the location identified on Exhibit A attached hereto and the other Well on the Lands at the location identified on Exhibit B attached hereto. Each location will consist of an area containing not more than four acres as reasonably in the form of a rectangle surrounding the well as the topography permits. Each such location is referred to as a "Drillsite" in this Agreement.

BHEP owns certain leasehold interests in the oil and gas mineral estate in the Lands and proposes to conduct drilling and subsequent operations at each Drillsite on the Lands.

Owner and BHEP desire to reach an agreement with respect to the use of the surface of the Lands and with respect to payment to the Owner for the use of and damage to the Lands.

Owner and BHEP wish to memorialize their agreement concerning the payment for use of and damages to the surface of the Lands in connection with the drilling, construction, completion, recompletion, reworking, re-entry, production, maintenance and operation of the Well(s) and all pipelines, tank batteries and other facilities or property of BHEP associated with the Well(s) and located on the Lands.


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, Owner and BHEP agree as follows:

1

[REDACTED]

2

[REDACTED]

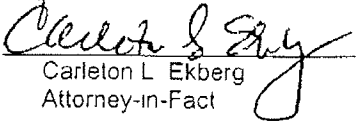
- 3 Owner warrants that they are the owner of the entire surface of the Lands subject to this Agreement and that no one who is not a part of this Agreement is entitled to payment for use of or normal damage to the surface of the Lands for which payment has been made pursuant to paragraph numbered 1 above
- 4 In conducting operations on the Lands, BHEP shall
- A If possible, keep access roads to approximately 30 feet in width or less,
 - B Separate the top soil at the time of excavation of pits so that the top soil and subsurface soil are placed back in proper order as nearly as possible,
 - C Reclaim each Drillsite as nearly as practicable to its original condition where reclamation operations shall be completed, weather permitting, as soon as practicable following drilling and subsequent related operations unless BHEP and Owner mutually agree to postponement because of crop, weather or other considerations,
 - D Use its best efforts to keep the Drillsite, pipeline, road and battery sites free of weeds and debris
 - E Salvage cut trees for posts or firewood for benefit of Owner. Juniper trees between 4 and 10 inches, which are straight, shall be cut in lengths between 6.5 and 8 feet. Any other wood that is greater than three inches in diameter will be cut into lengths not to exceed 18 inches in length
- 5 When the word "BHEP" is used in this Agreement, it shall also mean the successors and assigns of BHEP, including, but not limited to, its employees and officers, agents and affiliates
- 6 
- 7 Owner hereby agrees that by its payment of the Owner Amount, BHEP has fully complied with the applicable governmental regulations and statutes, if any, relating to the settlement of the damages contemplated herein. Owner further released Operator, its successors, agents and employees from any and all claims for damages for loss of growing crops on the Lands resulting directly or indirectly from the drilling, completion, recompletion, reworking, re-entry, production, maintenance and operation and/or abandonment of the Well(s)
- 8 Owner hereby agrees to waive all thirty (30) day notices as required by the Colorado Oil and Gas Conservation Commission ("COGCC") for issuing permits to drill or as may be required under consultation provisions of COGCC Rule 305 or 306. Said waivers will be provided to Owner on an individual well basis as needed
- 9 The parties hereto agree that the specific terms and conditions of this agreement are strictly confidential and shall not be disclosed except as required by court order, for tax purposes, or as necessary to effectuate the provisions herein. The parties shall execute a Memorandum of Surface Use Agreement which BHEP shall place of record in La Plata County, Colorado to provide notice of the existence of this Agreement to subsequent purchasers of any portion of the property

- 10 In the event that either BHEP or Owner believes that the other party has defaulted under this agreement, prior to commencing any action, the party alleging default shall notify the other party in writing of the facts relied upon as constituting a breach thereof, and that party, if in default, shall within sixty (60) days after receipt of such notice, commence the compliance with the obligations imposed by virtue of this agreement
- 11 This Agreement may be assigned by BHEP to any party that acquires the Well(s) drilled on the Drillsites without notice or prior written consent BHEP may also assign this Agreement and delegate its duties to Black Hills Gas Resources, Inc (an affiliate of BHEP) without prior notice or written consent
- 12 This Agreement shall be a covenant running with the land
- 13 This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, representatives, successors, agents and assigns


IN WITNESS WHEREOF, the parties have set their hands on the day and year first written above


BLACK HILLS EXPLORATION & PRODUCTION, INC

By


Carleton L. Ekberg
Attorney-in-Fact

OWNER


DANNY JAUQUES


BARBARA L. JAUQUES

ACKNOWLEDGEMENT

State of Colorado)

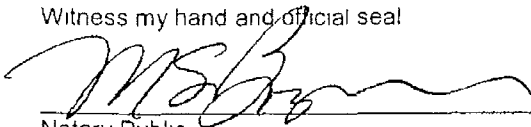
County of La Plata)

On this 15 day of June, 2007 this instrument was acknowledged before me by **Danny Jaques and Barbara L Jaques, husband and wife**, known to me to be the persons described in and who executed the foregoing instrument, and acknowledged to me that they signed, sealed and executed said instrument freely and voluntarily for the purposes herein mentioned

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written

Witness my hand and official seal

(Seal)


Notary Public
My commission expires 6-21-09

ACKNOWLEDGEMENT

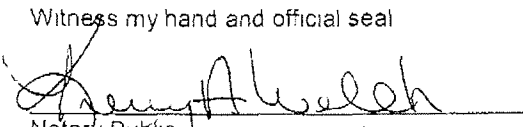
State of Colorado)

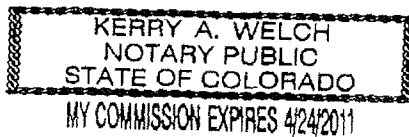
County of Jefferson)

On this 31st day of July, 2007, this instrument was acknowledged before me by **Carleton L Ekberg, Attorney-in-Fact for Black Hills Exploration and Production, Inc.**, a Wyoming corporation, on behalf of said corporation

Witness my hand and official seal

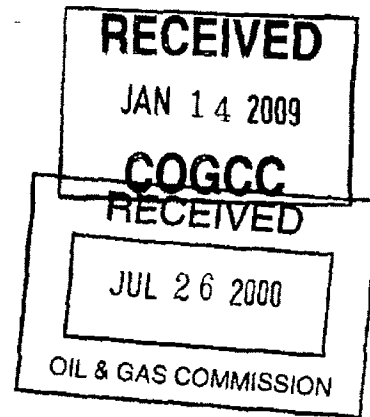
(Seal)


Notary Public
My commission expires 7/24/2011



~~XXXXXXXXXX~~
00884715

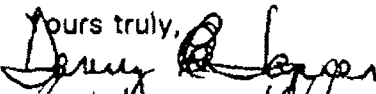

Danny Jaques and
Barbara L. Jaques, H&W
3503 County Road 514
Ignacio, CO 81137



June 8, 2000

To Whom It May Concern:

I have a surface use agreement with Stewart Petroleum Corporation for the road, pipeline, and well site for the Jaques Ute #34-7 well at 2,095' FNL & 1,718' FEL, Section 34/T33N/R8W La Plata County, Colorado which addresses use and reclamation of my surface.

Yours truly,


Danny Jaques and
Barbara L. Jaques, H&W