

SURFACE USE AND RELEASE AGREEMENT

This Surface Use and Release Agreement (this "Agreement") is made and entered into this 17th day of January, 2008, by and between **Ben E. Nichols and Lois M. Nichols**, individually and as trustees of the Ben E. Nichols Living Trust, dated March 2, 2000, and as trustees of the Lois M. Nichols Living Trust, dated March 2, 2000, whose address is 55759 Highway 130 Colbran, CO 81624-9505 ("Owner") and **EnCana Oil & Gas (USA) Inc.**, whose address is 370 17th Street, Suite 1700, Denver, Colorado ("EnCana").

Whereas, EnCana or an affiliate has the right to drill one or more oil and gas wells (the "Well") on the Lands described below:

Township 9 South, Range 95 West, 6th P.M.
Section 31: SE/4
Mesa County, Colorado

Whereas, Owner and EnCana wish to memorialize their agreement concerning the payment for 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 EnCana or its affiliates associated with the Well(s) and located on the Lands.

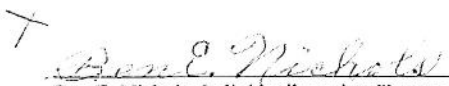
Therefore, for and in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and EnCana agree as follows:

1. Prior to the commencement of drilling operations for the Well, EnCana shall pay Owner ("Damage Amount"). If EnCana elects to increase the size of the well pad to accommodate additional wells, EnCana shall pay Owner the additional cost of such operations. EnCana agrees disturbance prior to conducting operations to extend the well pad. Such payment shall constitute payment in full by EnCana and its affiliates for all normal damages, including, but not limited to, damages to growing crops, associated with the drilling, construction, completion, recompletion, reworking, re-entry, production, operation and maintenance of the Well(s). Normal damages include, but are not limited to, reasonable and customary ingress, egress, rights-of-way, construction of all access roads, preparation and use of the drillsite area, preparation and use of reserve pits, and construction, installation and maintenance of production equipment and facilities such as flowlines, gas pipelines, separators, tank batteries and other equipment or facilities necessary or convenient for the production, transportation and sale of oil and/or gas therefrom.
2. If by reason of EnCana's operations, there is damage to personal property located on the Lands or there is damage to the surface of the Lands caused by the negligence of EnCana or an unreasonable use of the surface of the Lands by EnCana that is not associated with reasonable and normal drilling, completion, recompletion, reworking, re-entry, production, maintenance and operation of the Well, such as damage to structures, fences, culverts and cement ditches, such damage shall be repaired or replaced by EnCana or EnCana shall promptly pay Owner for such damage.
3. Owner warrants that he is the owner of the entire surface subject to this Agreement and that no one who is not a party to this Agreement is entitled to payment for normal damage to the surface of the Lands for which payment has been made pursuant to paragraph numbered 1 above.
4. Except as provided in paragraph numbered 2 above for cases of unreasonable surface use and/or negligence by EnCana, Owner, for itself and its successors and assigns, does hereby, in consideration of the Damage Amount, release, relinquish and discharge EnCana, its affiliates, successors and assigns from all claims, demands, damages and causes of action that Owner may have be reason of the drilling of the Well(s) and all other damage or injury to the Lands caused by the drilling, completion, recompletion, reworking, re-entry, production, operation and maintenance of the Well(s), and Owner accepts the Damage Amount as full compensation therefore.
5. Owner hereby agrees that by its payment of the Damage Amount, EnCana has fully complied with the applicable governmental regulations and statutes, if any, relating to the settlement of the damages contemplated herein.
6. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, representatives, successors, agents, and assigns.

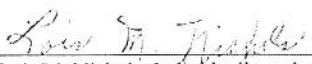
7. Owner expressly acknowledges that this Agreement satisfies the obligations and requirements of Operator pursuant to Colorado Oil and Gas Conservation Commission rules and regulations and Colorado statutes to consult in good faith with Owner regarding proposed oil and gas operations on the Land. Owner expressly acknowledges that this Agreement shall be deemed to be specifically applicable to, and to satisfy fully, the obligation of Operator to accommodate the Owner's use of the surface of the Land, existing and future, and Owner waives any statutory or common law claims to the contrary including, but not limited to, any claims pursuant to C.R.S. 34-60-127.

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


Ben E. Nichols


Ben E. Nichols, Individually and as Trustee of the Ben E. Nichols Living Trust, dated March 2, 2000, and as Trustee of the Lois M. Nichols Living Trust, dated March 2, 2000

Lois M. Nichols


Lois M. Nichols, Individually and as Trustee of the Ben E. Nichols Living Trust, dated March 2, 2000, and as Trustee of the Lois M. Nichols Living Trust, dated March 2, 2000

ECma Oil & Gas (USA) Inc.

By: 
Ricardo D. Gallegos
Attorney-in-Fact

ACKNOWLEDGEMENTS

State of Colorado)

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County of: Mesa)

On this 11th day of January, 2008, before me personally appeared Ben E. Nichols, known to be the person described in and who executed the foregoing instrument, and who acknowledged to me that he executed the same.

SEAL

MARIAN M. LEARNED
Notary Public
State of Colorado

My commission expires: 10/01/11 Notary Public

State of Colorado)

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County of: Mesa)

On this 11th day of January, 2008, before me personally appeared Lois M. Nichols, known to be the person described in and who executed the foregoing instrument, and who acknowledged to me that she executed the same.

SEAL

MARIAN M. LEARNED
Notary Public
State of Colorado

My commission expires: 10/01/11 Notary Public

State of Colorado)

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City and County of: Denver)

On this _____ day of _____, 2008, before me personally appeared Ricardo D. Gallegos, known to be the person described in and who executed the foregoing instrument, and who acknowledged to me that he executed the same.

SEAL

My commission expires: _____ Notary Public