

Battle Mountain Co.

Surface Use Agreement

May 10, 2004

AGREEMENT FOR SURFACE ACCESS, RIGHT OF WAY, AND PIPELINE EASEMENT

THIS AGREEMENT FOR SURFACE ACCESS, RIGHT OF WAY, AND PIPELINE EASEMENT ("AGREEMENT") is made, entered into, and effective this 10th day of May, 2004 between **Battle Mountain Co.**, hereinafter ("Battle Mountain" or "Owner") a Wyoming Corporation, whose address is 206 West Maple, Rawlins, Wyoming, 82301, and **Cedar Ridge LLC**, operating as **Cedar Ridge Operating Co., L.L.C.** in the State of Wyoming, hereinafter ("Cedar Ridge" or "Operator") a Colorado Limited Liability Company, whose address is 484 Turner Drive, Building B, Suite 3, Durango, Colorado 81302.

WITNESSETH

For and in consideration of the covenants and agreements herein contained, and other good and valuable consideration, the parties hereto agree as follows:

1. **Lands.** The Owner is the apparent owner of both the surface and mineral estate attributable to those lands described on Exhibit "A" attached hereto and made a part hereof by this reference (Exhibit "A" Lands). Operator warrants it holds valid oil and gas leases attributable to the mineral estate of the Exhibit "A" Lands.

The Owner owns the severed surface estate, but not the mineral estate, attributable to those lands described on Exhibit "B" attached hereto and made a part hereof by this reference (Exhibit "B" Lands). Operator warrants that it holds valid oil and gas leases attributable to the mineral estate of the Exhibit "B" Lands.

The Exhibit "A" Lands and the Exhibit "B" Lands shall be collectively referred to in this Agreement as the "Lands" or "Said Land(s)".

It is the intention of the parties to this Agreement to define between themselves how Operator will conduct its contemplated development of the oil and gas, including coal bed methane, on the Lands. However, this Agreement will be valid only as to those Lands for which Operator currently holds valid oil and gas leases. Additionally, if Operator obtains new oil and gas leases on any lands shown on Exhibit B then this Agreement shall be valid as to the lands included on the new oil and gas leases as well. Operator may not conduct any operations under this Agreement on any Lands for which it does not hold valid oil and gas leases at the time of commencement of said operations.

If Operator, because of a pugh clause or for any other reason, loses its current oil and gas lease on any part of the Exhibit "A" Lands on which Operator has already

constructed any of those types of facilities covered by Section 6 hereof, then Operator may leave such facilities in place. However, Operator shall pay Owner for the use of Owner's surface estate those payments provided for by Section 6 hereof.

2. Right-of-Way. Owner grants Operator, its employees, and others authorized by Operator, a private right-of-way to enter upon and use the Said Lands of Owner for the purpose of drilling, completing, servicing, maintaining and operating oil and gas wells under any of Operator's oil and gas leases and for constructing and maintaining access roads, and other facilities related thereto. Provided, however, that this Agreement shall not be construed to allow Operator to construct or maintain any gas pipeline other than a gathering system of pipelines, including gathering pipelines transporting oil, gas and/or water from lands not otherwise subject to this Agreement, to compressor stations and shall not cover or allow market gas pipelines from compressor stations. For any activities conducted on Lands covered by a Conservation Easement, Operator shall comply with all applicable provisions of such Conservation Easement, including but not limited to obtaining any required prior written approval from the Colorado Division of Wildlife.

3. Notification. Operator agrees to notify Owner in advance of the location of all wells, pipelines, power lines, roads, and other production facilities prior to entry upon the Lands to construct or install any such wells, pipelines, power lines, roads, or other production facilities. Operator shall reasonably attempt to locate all wells, pipelines, roads, and other facilities so as to cause the least interference with Owner's operations on the Lands. Operator agrees to notify Owner upon the completion or plugging and abandonment of any well drilled by Operator on the Lands. Operator agrees to notify Owner prior to entry upon the Lands for the purpose of drilling any new well located on the Lands. Operator agrees to notify and consult with Owner regarding the location of any production facility and/or compressor station prior to construction of those facilities.

4. Termination of Rights. The rights granted by Owner to Operator shall terminate when any of the following events occurs: a) upon Operator's written notification to Owner of Operator's intention to cease its operations on the Lands; or b) if Owner elects to terminate this Agreement, after the failure of Operator to cure any breach hereunder, notice having been given consistent with paragraph 42 and if Operator contests such breach after a final determination a breach has occurred by a Wyoming court consistent with paragraph 40 hereof; or c) after five (5) years from the date this Agreement is entered into, and then only upon cessation of utilization of any rights granted hereunder for a period of one (1) year. Operator will execute and deliver to Owner a good and sufficient recordable release and surrender of all of Operator's rights hereunder and will promptly remove all above-ground equipment and property used or placed by Operator on the Lands unless otherwise agreed by Owner in writing. Upon termination of this Agreement or abandonment of any underground pipeline, the same shall be removed or left in place as directed by the Bureau of Land Management involving federal lands adjacent to or in the vicinity of the Lands.

5. **Non-exclusive Rights.** The rights granted by Owner to Operator are nonexclusive, and Owner reserves the right to use all access roads and all surface and subsurface uses of the land affected by this Agreement, and the right to grant successive easements thereon or across on such terms and conditions as Owner deems necessary or advisable, so long as such use and grants do not unreasonably interfere with Operator's rights.

6. **Payments.** As compensation and damages for Operator's utilization of the Lands hereunder for construction and operations, including well sites, roads, production facilities, compression sites, transportation facilities, power lines and pipelines, Operator shall pay Owner as set out below:

a. **Well Pads.** [REDACTED] for each well pad on the Lands which is one and one-half (1 1/2) acres or less and [REDACTED] for each well pad on the Lands which is larger than one and one-half (1 1/2) acres but less than three (3) acres. This amount shall be paid by Operator to Owner prior to the commencement of well pad construction as consideration for damages associated with the construction, maintenance and use of the location for drilling, completion, and production activities. Operator shall also pay to Owner an annual payment of [REDACTED] each year for each well completed, whether producing or not, located on any of the Exhibit "B" Lands. Operator shall have the right to install on the well pad pumping units, power units, separators, compressors, electrical generators, gas flow lines, pipelines and any other necessary production or injection equipment for the production, re-injection and transportation of gas and water from Said Lands, and any facilities necessary for the production, storage, disposal, transportation and marketing of oil and/or gas from under Said Lands. Owner agrees to Operator's use of gathering pipelines and power lines across Lands for gathering of non-lease materials provided there is no significantly different type of impact to the Lands, beyond that which would be created for transport of lease materials. Where reasonably practical, production equipment and facilities shall be painted so as to minimize the visual impact of such facilities. Upon the termination of this Agreement, Operator agrees to remove all such facilities reclaim and reseed the Lands in and around such facilities to return such Lands as near as practical to their original condition.

b. **Access.** For each new well pad, Operator shall pay to Owner an initial access fee of [REDACTED] per rod for use of existing roads on the Lands not previously being used by Operator, and [REDACTED] per rod for new roads constructed by Operator on the Lands. Operator shall pay to Owner an annual damage payment of [REDACTED] for use of existing roads and [REDACTED] per rod for new roads constructed by Operator on or across the Exhibit "B" Lands

c. Power Lines and Pipelines. For each new power line or new pipeline installed by Operator, Operator shall pay to Owner the sum of [REDACTED] per rod for each such line. Operator shall pay owner an annual rental for all power lines and pipelines constructed and operated pursuant hereto on Exhibit "B" Lands, at the rate of [REDACTED] per rod for each such line. Operator shall be responsible for back filling, re-packing, re-seeding, and re-contouring the surface so as not to interfere with Owner's operations. Operator shall provide Owner with a survey showing the location of all power lines, pipelines and gathering systems promptly after their installation. All pipelines and gathering systems located by Operator on the Lands shall be buried to a depth of at least three (3) feet below the surface, and surface marked in accordance with industry standards. All easements and rights-of-way for power lines and pipelines shall be fifty (50) feet in width during initial construction and reclamation activities, and after completion of initial construction and reclamation activities such easements and rights-of-way shall revert to twenty (20) feet in width being ten (10) feet on each side of the centerline of the line. All power lines shall be installed underground to a depth of at least three (3) feet below the surface whenever reasonably practical to do so.

d. Compressor Stations. For each central compressor station constructed on the Lands by Operator, Operator agrees to pay to Owner the sum of [REDACTED] for each central compressor site on the Lands which is one and one-half (1 1/2) acres or less and [REDACTED] for each central compressor site on the Lands which is larger than one and one-half (1 1/2) acres but less than three (3) acres. This amount shall be paid by Operator to Owner prior to the commencement of construction as consideration for damages associated with the construction, maintenance and use of the location for production activities. Operator shall reasonably attempt to minimize the total surface area disturbed for compressor stations so as to cause the least interference with Owner's operations on the Lands. Operator agrees to pay to Owner the sum of [REDACTED] per year, or portion thereof, for each year a compressor station remains on the Exhibit "B" Lands.

e. Existing Well Pads, Pipelines, Power Lines and Facilities. Operator agrees to pay Owner a payment of [REDACTED] as consideration for damages, access and use of the existing Well Pads, Pipelines, Power Lines and Facilities within 15 days of execution of this Agreement.

The existing well pads, pipelines and power lines located on the Lands for which the [REDACTED] payment is being made are itemized below:

<u>Description</u>	<u>Size (acres) Length (rods)</u>
Moffat 23-12-89 #1 (Well Pad)	Less than 1.5 acres

Moffat 23-12-89 #2 (Well Pad)	Less than 1.5 acres
Moffat 26-12-89 #1, & SWD #1* (Well Pad)	Less than 1.5 acres
Existing Access Road	928 rods
Buried Gas Pipeline	384 rods
Buried Water Pipeline	384 rods
Buried Electric Power Line	384 rods

**Note: The Moffat 26-12-89 #1/Moffat 26-12-89 SWD #1 well pad includes the existing central production facility, power generation and water disposal facility.*

The initial payments to be made by Operator shall be made in the amounts and at the times stated above. All annual payments shall be made, in advance, on January 10 of each year beginning January 10, 2005, and annually thereafter during the term of this Agreement.

7. Limitation on Rights. For any activities conducted on property covered by a Conservation Easement, Operator shall comply with all applicable provisions of such Conservation Easement, including but not limited to obtaining any required prior written approval from the Colorado or Wyoming Division of Wildlife, as applicable.

8. Locations. No well shall be drilled on the subject Lands in areas designed as "No Surface Occupancy" per the terms of the Oil and Gas Lease(s) without prior written approval of the Owner. All wells shall be placed away from all structures per the setback rules and regulations of the Colorado Oil and Gas Conservation Commission or the Wyoming Oil and Gas Conservation Commission as applicable.

9. Maintenance and General Operations. Operator shall at all times keep the well sites, road rights-of-way, facility locations, and other areas disturbed by Operator safe and in good order, free of noxious weeds, litter, and debris. Operator shall dispose of all litter, sewage, and debris off of Owner's property at an approved disposal site. Using reasonable efforts, Operator shall not allow or permit erosion to continue on any disturbed sites and shall promptly repair, reclaim and reseed all erosion sites. Operator shall not permit the release or discharge of any toxic or hazardous chemicals or wastes on the Lands. All cattle guards and fences installed by Operator shall be kept clean and in good repair.

10. Produced Water. The method and location of surface discharge of produced water must be approved in advance by Owner; provided however, approval of such discharge will be granted unless it unreasonably degrades or adversely affects the quality of water in reservoirs and water courses on the Lands. All water produced and discharged from Operator's wells shall be produced and discharged in accordance with all applicable rules and regulations of the governmental authorities having jurisdiction over such matters. Whenever possible, the produced water shall be discharged directly into an existing drainage system or reservoir (though Operator hereby agrees not to

directly or indirectly discharge water into either the Upper or Lower Cogdill Reservoirs), if permitted by applicable laws and regulations, and if such discharge will not unreasonably degrade or adversely affect the quality of water in the drainage system or reservoir, so that Owner may make beneficial use of the water. Produced water shall be discharged in a way so as to reasonably minimize the amount of surface disturbance and damage to the Lands. Operator may inject water produced from any of Operator's wells into state or federally permitted injection wells located on the Lands. If surface discharge of produced water has been approved by all regulatory agencies and upon mutual agreement of Owner and Operator, Operator may construct dams, reservoirs, pipelines, culverts, or other improvements to transport and contain produced water for the benefit of Owner, provided such construction does not unreasonably interfere with Operator's ability to properly operate the wells. Provided that Operator is not in breach of this Agreement, Owner will not oppose an application by Operator before any governmental authority to lawfully disperse or dispose of produced water.

11. Consolidation. Whenever possible, Operator will consolidate its facilities for as many wells as is practical, locating all production and compression facilities including incoming electrical power at a central point and locating all secondary power lines underground to the extent as is reasonably practical

12. Dry Hole. If Operator does not discover oil and/or gas in paying quantities at a well site and determines the well to be a "dry hole," or if the Operator determines that well does not have any benefit the Operator, such as a disposal well, or upon cessation of production from a well, Operator will give Owner twenty (20) days written notice of the opportunity to take over any such well. If Owner elects to take over any such well, Owner shall obtain the necessary bonds and permits from all the appropriate regulatory agencies and shall thereafter assume all liability and costs associated with that well and well pad, including but not limited to the ultimate plugging, abandonment and reclamation of the well pad in conformance with all applicable laws, rules, regulations, and ordinances, and both parties shall execute any and all documents necessary to provide that the water in the well shall become the property and responsibility of Owner. If Owner does not elect to take over the well and convert it to a water well, the Operator shall plug and abandon the well as required by applicable laws and regulations, fill and level the location, re-contour the location, distribute the top soil, make the location ready for reseeding, and reseed the area. All cleanup and reclamation requirements shall be completed, if weather permits, by Operator within twelve (12) months after termination of drilling or production activities at the well site.

13. Roads. Any new roads shall be limited to twenty-two (22) feet in width for the actually traveled roadbed, together with a reasonable width, not to exceed twenty (20) feet on either side of the centerline of the actually traveled roadbed for fills, shoulders and crossings. If because of the unique topography the road width specified herein will be insufficient for Operator to get its equipment to a drill site, Operator may request written approval from Owner for a limited wider road, which written approval shall not be

unreasonably withheld by Owner. Operator shall, if requested by Owner, place signs on any roads designating them as private roads. Operator will maintain and keep in good repair all roads used by Operator on the Lands.

14. Fences and Reclamation. Operator shall install fences around any dangerous area, including, any pits, where Operator drills any new wells. Operator shall reclaim and restore all areas disturbed by Operator's operations as near as practical to their original condition within twelve (12) months after termination of activities at the site or right-of-way.

15. Power lines and Pipelines. Operator shall back fill, compact, reseed, and re-contour the area disturbed by Operator's construction, installation, repair, or removal of any power line or pipeline. Upon termination of this Agreement, as set out in Paragraph 4., and upon request from Owner, Operator shall remove all above ground temporary pipeline and power line facilities. To the extent that it does not unreasonably interfere with Operator's operations, Operator shall allow Owner to have reasonable access and use to any power lines installed upon Owner's property upon agreement between Owner and power company for purchase of power provided it does not interfere with Operator's operation. Upon cessation of operations by Operator, Owner may at its election keep said power lines in place.

16. Improvements. Operator agrees to notify and consult with Owner prior to cutting or damaging any fences, cattle guards, or other improvements of Owner. All areas disturbed by Operator's activities will be reseeded unless otherwise agreed to by Owner. All cattle guards and fences installed by Operator or on roads used by Operator shall be kept clean and in good repair by Operator during the term of this Agreement.

17. Fencing of Access Roads. Operator will not fence any access roads without the prior written consent of Owner.

18. Payments. The compensation provided herein to be paid by Operator to Surface Owner shall release and discharge Operator, its agents, and employees, (except for damages or losses which are caused by a breach of the provisions of this Agreement, or the gross negligence or wanton recklessness of Operator, its agents or employees), from all claims, losses, demands, and causes of action for damage to land, loss of and damage to crops, and use of land, as a result of Operator's drilling, producing and marketing operations on Said Land. The parties agree that Operator is in full compliance with the terms and conditions of this Agreement as to the four (4) wells, three (3) sites, and all access, pipelines, powerlines and other facilities associated with the above mentioned four wells as of the effective date of this Agreement. Operator will compensate Surface Owner for any unusual damages caused by oil, or salt-water spills, and loss of livestock on Surface Owner's property as a result of operations by Operator, its agents, or employees. All livestock lost, injured, or killed, as a direct result of Operator's activities on Surface Owner's lands shall be paid for at

market prices. Autopsies shall be required in the event Operator and Surface Owner cannot substantiate the cause of death by observation. Operator shall pay the cost of autopsy only if the autopsy indicates Operator was at fault for the loss of the livestock. Operator shall be notified prior to any autopsy, and have the right to be present during said autopsy.

19. **Non-disturbance.** Operator and its employees and authorized agents shall not disturb, use, or travel upon any of the land of Owner not subject to this Agreement.

20. **Firearms and Explosives.** None of Operator's employees or authorized agents or any other person under the direction or control of Operator shall be permitted to carry firearms or any weapon while crossing the Lands, and such persons shall not hunt or fish on the Lands and shall not trespass across the Lands for the purposes of hunting or fishing or recreational uses. No dogs will be permitted on the Lands at any time. No explosives shall be used on the surface of the Lands except as mutually agreed to by Owner and Operator. Operator will notify all of its contractors, agents and employees that no dogs, firearms, weapons, hunting, fishing, or recreational activities will be allowed on the Lands.

21. **No Storage Rights.** This Agreement shall in no way give Operator or its subcontractors the right to stack or store equipment, supplies, or parts on Owner's Lands, except necessary supplies and equipment at the well site, central compression facility or production facility during drilling, completion or production operations or as otherwise agreed to by Operator and Owner.

22. **No Living Quarters.** Operator shall not cause to be constructed any living quarters on the well site or on any of the Lands, except for temporary trailers used during drilling and completion operations. Such temporary trailers may not to be used by rig crews for sleeping between shifts.

23. **Consultation re: Lambing and Calving.** Operator shall, prior to lambing and calving seasons, consult with Owner as to the location of lambing and calving grounds so as to minimize Operator's use of the Lands during that time. For the purpose of this Agreement, lambing and calving season shall be deemed to occur between March 15th and June 15th.

24. **Payment for Fires.** Any fires caused by Operator's operations, its personnel, agents or assignees shall be compensated at the rate of 1/4 ton Alfalfa Hay [REDACTED] per acre for the rangeland burned. Operator shall pay Owner reasonable replacement costs for any fences, structures and improvements damaged or destroyed by fire caused by Operator's operations, its personnel, agents or assignees. Owner shall invoice Operator for the reasonable replacement costs, and Operator shall pay the invoice within thirty (30) days. Operator shall be liable for the costs of controlling and extinguishing such fires.

25. Minimize Visual Impact. Operator will attempt to minimize visual impact on the Lands by:

(a) Burial of secondary power lines from a central production/compression facility to as many wells as practicable.

(b) Where reasonably practical, keeping all structures as small and few as possible and using earth tone or beige color on the exterior thereof.

(c) Using existing roads for access to wells and use of automation where feasible and practical to minimize the need to check wells and production facilities frequently. Use of four wheelers or snow machines is permitted when muddy or snow conditions allow no practical alternatives as long as no recreation is involved.

26. Environmental Responsibility. The duty to conform to environmental laws and to abate the environmental damages resulting from activities of Operator, both present and future, is the responsibility of the Operator. Operator will defend, indemnify and hold harmless the Owner from any and all violations of environmental law including, but not limited to, hazardous waste, solid waste disposal, clean air, clean water and endangered species caused by Operator's operations.

27. Water. Without prior approval of Owner, Operator shall not use any water from any existing water wells owned by Owner, reservoirs or springs on the Lands. Operator shall not disturb, interfere with, fill, or block any creek, reservoir, spring, or other source of water on the Lands. Before conducting any new drilling operations, Operator, at its sole cost and expense, will measure the static water level and specific capacity of all Owner's water wells and/or springs located on the Lands which are within two thousand six hundred forty (2,640) feet of any new well to be drilled by Operator on the Lands, and will test those water wells and/or springs for the presence of methane. Owner shall provide Operator with a list of all such wells and/or springs and the location of all such wells and/or springs and provide access to same. After these measurements are taken, Operator shall establish a continuing water well monitoring program that will enable Operator to identify changes in the specific capacity of such water wells and/or springs and changes in the quality of water produced from the water wells and/or springs. Monitoring programs shall include, at a minimum, specific capacity tests on each water well and/or spring every twelve (12) months and tests for the presence of methane every twelve (12) months. The results of these tests and measurements will be immediately provided to Owner. If any water well and/or spring experiences a reduction in capacity of ten percent (10%) or more, or experiences an increase in the presence of methane in the water produced by the water well, Operator will immediately notify Owner. Owner shall then take reasonable steps to determine whether the change in capacity is a result of mechanical, electrical, downhole integrity, pump problems or

naturally occurring reduction in volume due to weather conditions (i.e. drought), and if none of these potential problems appear in Owner's reasonable discretion to be the cause of the change, Owner shall notify Operator. Operator shall then contract an independent Hydrologist at Operator's sole cost and expense to investigate the cause for the change and develop an action plan. If the change in water quality and/or specific capacity is proven to be directly attributable to Operator's activities, within sixty (60) days from the receipt of notice, Operator shall, at its sole cost, risk and expense, make all reasonable efforts to restore Owner's access to water of sufficient quantity and quality and in reasonable proximity to the original water source to offset such change by reconfiguring, re-drilling the well, drilling of a new well, or by other reasonable means. If necessary. If the water impairment is directly attributable to Operator's activities, Operator agrees that upon notice of impairment and during the curative period to provide and make available water for domestic and livestock usage in quantity, quality and location required to replace livestock operations. Owner shall aid and assist Operator in obtaining permits and permission necessary to conduct the operations to restore Owner's water source. Any pipeline constructed by Operator to transport produced water to Owner's reservoirs, stock tanks or other facilities under this paragraph will not require surface damage or right of way payments under this Agreement.

28. Other Matters Require Separate Agreement. Any facilities and items not covered by this Agreement shall be negotiated under a separate agreement.

29. Roads and Signs. Operator agrees, if requested by Owner, to place appropriate signs on main access roads designating such roads as a "private road", and to assist Owner in the control of the use of the road by unauthorized personnel. If unauthorized use of the road right-of-way is deemed a nuisance by Owner, Owner may require the installation of steel swing locked gates along the access road. Owner's livestock, vehicles and personnel shall have the right of way at all times. A speed limit of thirty-(30) mph is to be observed by all Operator's personnel, contractors and subcontractors at all times. Violators may be reported by Owner to Operator, and Operator will use reasonable efforts to control such violations. Barrow pits on newly constructed roads shall be sloped so that reseeding can be accomplished by a tractor and drill, where practical. Operator agrees to reseed barrow pits of any access road used for production that it constructs. Operator agrees to keep sites and right-of-ways in good order and free of litter and debris. Operator agrees to control noxious weeds on its well sites, its facility sites, along its rights-of-way and along water discharge drainages it utilizes to prevent spreading of noxious weeds. All roads shall be limited to twenty-two (22) feet in width and shall not occupy more than twelve and one-half (12.5) feet from the centerline of such access road for fill, shoulder, and crossing, unless agreed to in writing by Owner and Operator.

30. Gates and Cattle Guards. In those instances where access roads cross fence lines, now in existence or installed by Owner during the term of this Agreement, steel gates (or equivalent materials) or cattle guards (auto gates) shall be installed at the sole

cost and expense of Operator. The steel crates shall not be less than sixteen (16) feet wide by four (4) feet high constructed and mounted so as to prevent the passing through or under of adult and young livestock. The gates shall be hinged and mounted so as to permit the gates to swing to a position parallel to and adjacent to the fence. The cattle guards shall not be less than sixteen (16) feet wide by eight (8) feet across and shall be set on concrete sills not less than twenty-four (24) inches high by sixteen (16) inches wide. Fence braces shall be installed on each side of the gates or cattle guards. The fence braces shall be constructed of like quality material and installed in a like style and form as the fence braces currently being constructed on the Lands. The maintenance of said gates and cattle guards shall be the responsibility of Operator. Operator shall keep gates utilized in good repair to prevent the passing through of livestock. Operator shall keep cattle guards utilized in good repair and cleaned to prevent crossing of livestock. Any gate opened for access shall be closed immediately following such access. No gates shall be left open and unattended. Operator shall be liable for any and all costs, losses and damages resulting from a gate being left open by Operator or its employees or agents.

31. Road Repair and Maintenance. Operator agrees to maintain and repair, at Operator's expense, any damage caused by Operator to existing roads used for Operator's access. Operator agrees to provide reasonable maintenance for the access roads it uses. Operator agrees for the purposes of initial operations to gravel any slopes greater than three-percent (3%) and roads as necessary to conduct operations. If Operator finds gas in producible quantities, Operator shall at that time fully gravel the Cogdill Pond Road and any other designated main ranch roads used for primary access by Operator so that said roads are sufficient for all weather operation. Operator agrees to provide snow removal on roads it uses for operational purposes.

32. Topsoil. Operator agrees to remove, separately stockpile and replace all topsoil on drill pits. Operator agrees to install approved fences around pits to protect Owner's livestock and to prevent spreading of litter and debris.

33. No Liability for Damage by Livestock. Owner shall not be liable for any damage caused by livestock to any of Operator's facilities.

34. Abandonment of Roads. At such time as Operator no longer desires to utilize any portion of any access road, which Operator constructed on the Lands, Operator shall notify Owner of its desire to cease use of the access road. Owner, in its sole discretion, may choose to either allow the access road to remain or may require the Operator to reclaim the access road corridor. If the Owner elects to have the access road corridor reclaimed, Operator shall reclaim the access road corridor to its approximate original contour and shall reseed the access road corridor with a seed mixture appropriate for the area and acceptable to Owner. If Owner elects to allow the access road to remain, Operator shall be released from any and all further responsibility or liability for maintaining, reclaiming the access road corridor.

35. **Indemnification.** Operator shall hold Owner, and if applicable, Owner's officers, directors, employees, agents, heirs, and successors, harmless and free from liability from all claims, liabilities, demands, suits, losses, damages, and costs caused by Operator's negligent operations on the Lands.

36. **Compliance with Law.** Operator shall conduct operations and activities in accordance with existing local, state and federal laws, rules and regulations.

37. **Release.** Operator releases, waives and discharges Owner, and if applicable, Owner's officers, directors, employees, agents, heirs, and successors, from any and all liabilities for personal injury, death, property damage, or otherwise arising out of Operator's negligent operations under this Agreement or use of the Lands.

38. **Notice.** Notice may be given by either party to this Agreement to the other by depositing the same when deposited in the United State mail, postage pre-paid, certified with return receipt requested, or registered mail, and duly addressed to the other party at the address set forth herein below. Such notice shall be deemed delivered when the return receipt of such notice as set forth herein has been received. Nothing herein shall prevent one party from changing its address for purposes of notice by informing the other party in writing of such change no less than ten (10) days prior to the effective date of such change of address.

Mr. Jim Espy, Vice-President
Battle Mountain Co.
P.O. Box 146
Savery, Wyoming 82332
Phone: Home (307) 383-6872
Office (307) 383-6149
Fax: (307) 383-6871

Mr. Terry L. Logan
Cedar Ridge LLC
P.O. Box 3524
Durango, Colorado 81302
Phone: (970) 382-5990
Fax: (970) 382-9820

39. **Recording.** This Agreement will not be recorded by either of the parties and any such recording shall constitute an act of default. However, a Notice of Execution of Agreement for Surface Access, Right-of-Way and Pipeline Easement in the form attached hereto as Exhibit "C" shall be executed by the parties and placed of record by the Operator in those counties in which any of the Lands are Located.

40. **Construction Of Agreement And Venue.** This Agreement shall be construed according to the laws of the State where such lands are located, with jurisdiction and venue being vested exclusively in the Second Judicial District, Carbon County, Wyoming, whether such lands are located in Wyoming or Colorado.

41. **Binding Effect.** The terms of this Agreement shall run with the land and shall be binding on the heirs, successors and assigns of the Parties until terminated as provided in Paragraph 4. above.

42. **Default.** In the event of the failure of Operator to timely make any payment required hereunder or any other breach of this Agreement, Owner shall notify Operator of such failure. Operator shall have thirty (30) days following receipt of a monetary default notice and sixty (60) days following receipt of a nonmonetary default notice to cure such failure to timely make payment or cure such breach, unless Operator disputes the amount claimed to be due or the existence of a breach. Operator shall timely pay any undisputed amount. The waiver of any default hereunder shall not be deemed to be a waiver of a subsequent default. Notice of any subsequent default shall be given to Operator as herein provided. If Operator does not cure the failure to make any undisputed payment or cure any undisputed breach or default so specified within the time specified following receipt of notice, the rights granted the Operator hereunder will be suspended, until such time as the undisputed default has been cured, and Owner will not be liable for any loss or damage to Operator occasioned by Owner's enforcement of this provision.

43. **Logs and Information.** Operator shall provide upon Owner's request complete copies of all dry hole logs of any wells drilled which Owner wishes to convert to water wells under the above-described leases free of cost to Owner, upon the Owner's request.

44. **No Public Benefit or Dedication Intended.** This Agreement is not intended and shall not be construed as conferring any benefit on the general public or to any party other than OWNER and OPERATOR and their respective successors and assigns. The parties do not hereby dedicate or offer for dedication to the public any real property or improvements whatsoever.

45. **Assignment.** This Agreement shall be binding upon and shall be for the benefit of the Owner and its successors and assigns. An assignment of this Agreement shall not be made by the Operator without having first obtained the written consent of the Owner, which written consent will not unreasonably be withheld.

46. **Paragraph Titles.** The underlined paragraph titles are included primarily for convenience of reference. To the extent of any conflict between the meaning of any title and the text, the text shall control.

47. **Severability.** If any provision of this Agreement is declared by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the remaining provisions shall not be affected thereby. Such remaining provisions shall be fully severable, and the remainder of this Agreement shall be fully enforceable, as if such invalid provisions never had been inserted in the Agreement.

48. **Counterparts.** This Agreement may be executed in two or more original counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

49. **Acknowledgments.** Each Party acknowledges that the consideration it has given or received hereunder is fair and adequate consideration for the grants, covenants, undertakings, and promises contained herein; that this Agreement has been negotiated in good faith and at arms' length; that they or their undersigned representative have read and understand each and all of the provisions herein and are authorized to execute this Agreement in their or its behalf and to bind them or it to the terms hereof, and that they have consulted with their own legal counsel in executing this Agreement.

50. **Entire Agreement.** As of the effective date hereof, this instrument contains the entire Agreement of the Parties with respect to the subject matters hereof.

51. **Shall Not Diminish Other Rights.** Except as otherwise specifically provided for in this Agreement, this Agreement shall not in any way diminish any other rights to and in said Lands held by Operator by virtue of said oil and gas leases or other acquisition of rights.

The Parties execute this Agreement, effective as of the date set forth above, notwithstanding the actual date of signing, if different.

DATED for all purposes as of the day and year first above written.

BATTLE MOUNTAIN CO.

By: E. Robert Grieve
E. Robert Grieve
Title: President

**CEDAR RIDGE LLC and
CEDAR RIDGE OPERATING CO., L.L.C.**

By: Terry L. Logan
Terry L. Logan
Manager

State of Wyoming)
: ss
County of Carbon)

The foregoing instrument was acknowledged before me this 20 day of May, 2004 by E. Robert Grieve, President of Battle Mountain Co., a Wyoming Corporation, on behalf of said company.

My Commission Expires May 2, 2008

NOTARY
PUBLIC

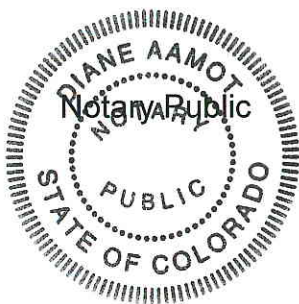
Robin J. Jolly

Notary Public

State of Colorado)
 : ss
County of La Plata)

The foregoing instrument was acknowledged before me this 1st day of July, 2004 by Terry L. Logan, MANAGER of Cedar Ridge LLC, a Colorado limited liability company, operating as Cedar Ridge Operating Co., L.L.C. in the State of Wyoming on behalf of said company.

My Commission Expires Oct. 13, 2005



Diane Aamot

EXHIBIT "A"

It is the intention of this Exhibit "A" to describe those lands that Battle Mountain Co. owns both a surface estate interest and a mineral interest.

LANDS IN ROUTT COUNTY, COLORADO:

Township 11 North, Range 88 West, 6th P.M.

Section 6: Lot 8, SE/4NE/4, NE/4SE/4

Section 7: NE/4SE/4

Section 8: NW/4, E/2SW/4, NW/4SW/4

Township 12 North, Range 88 West, 6th P.M.

Section 31: SE/4SE/4

Township 12 North, Range 88 West, 6th P.M.

Section 18: Resurvey Tracts 49, 50 and 55

LANDS IN MOFFAT COUNTY, COLORADO:

Township 12 North, Range 89 West, 6th P.M.

Section 9: Lots 3 and 4

Section 16: W/2

EXCEPTING THEREFROM: A tract described in Deed from Minnie M. Toole, also known as Minnie McCary Toole to Frank D. Baxter dated August 2, 1928 and recorded August 2, 1928 in book 71 at Page 240 and being more particularly described as follows:

Beginning at a point which is the closing corner on the Colorado-Wyoming State line, on the west side of Section 9 in Colorado, Township 12 North, Range 89 West, 6th P.M.; thence running N 89°47' E, 422 feet; thence S 22°25' E, 503 feet; thence S 16°08' W, 585 feet; thence S 15°48' E, 187 feet; thence S 25°35' W, 508 feet; thence S 62°28' E, 331 feet; thence S 89°45' E, 200 feet; thence N 77°58' E, 349 feet; thence N 65°50' E, 604 feet; thence S 01°05' W, 543 feet; thence S 23°33' E, 340 feet; thence S 31°40' E, 312 feet; thence S 67°05' E, 265 feet; thence N 55°45' E, 298 feet; thence N 31°38' E, 353 feet; thence South 3118 feet to the South Quarter Corner Section 16, Township 12 North, Range 89 West 6th P.M.; thence S 88°26' W, 2635.38 feet to the southwest corner of said Section 16, Township 12 North, Range 89 West 6th P.M.; thence North 5452.26 feet to the closing corner of the Colorado-Wyoming State line, on the West side of the said Section 9, in Colorado, Township 12 North, Range 89 West, 6th P.M., to the point of beginning.

Also a tract of land beginning at a point South 556 feet from the North Quarter Corner of Section 16, Township 12 North, Range 89 West 6th P.M.; running thence South 1170 feet; thence East 20 feet; thence North 1500 feet to the point of beginning.

ALSO EXCEPTING THEREFROM: A tract of land described in Deed from Leeland U. Grieve to The Board of County Commissioners of the County of Moffat dated May 19, 1955 and recorded December 27, 1955 in book 220 at Page 27 and being more particularly described as follows:

A tract or parcel of land containing 1.27 acres, more or less, in the NE1/4 of the NW1/4 of Section 16 and Lot 3, all of which are located in Township 12 North, Range 89 West of the 6th P.M., in Moffat County, Colorado, said tract or parcel being more particularly described as follows:

Beginning at Station 1+85.0, a point on centerline from which the 175 M.C. on Colorado Wyoming line bears N 89°47' E, a distance of 865.0 feet, said tract being a strip of land 100.0 feet in width with 50.0 feet on either side of the following described centerline survey:

1. Thence left along a 5° curve for a distance of 200.9 feet to a point of tangency, (lands in Moffat County, Colorado)
2. Thence bearing S 52°53' E for a distance of 37.7 feet to a point of curvature,
3. Thence left along a 4° curve for a distance of 316.4 _____ to Station 7+40.0, whence the ¼ corner common to Section 16 and 9, Township 12 North, Range 89 bears north for a distance of 135.0 feet.

Township 12 North, Range 89 West, 6th P.M.

Section 9: Lots 1 and 2

Section 16: E/2

EXCEPTING THEREFROM: A tract of land as described in Right of Way Deed from Fred D. Boice, Jr. and Robert M. Boice to The Board of County Commissioners of the County of Moffat and State of Colorado dated May 9, 1955 and recorded November 21, 1955 in Book 218 at Page 430, being more particularly described as follows:

Beginning at Station 7+40.0, a point on centerline from which the ¼ Corner common to Sections 16 and 9 bears North a distance of 135.0 feet, said tract being a strip of land 100.0 feet in width, 50.0 feet on either side of the following described centerline survey:

1. Thence left along a 4° curve for a distance of 708.2 feet to a point of tangency;
2. Thence N 86°08' E for a distance of 531.6 feet to a point of curvature;
3. Thence left along a 2° curve for a distance of 488.4 feet to a point of tangency;
4. Thence N 76°22' E for a distance of 26.6 feet to a point of curvature;
5. Thence right along a 6° curve for a distance of 548.1 feet to a point of tangency;
6. Thence S 70°45' E for a distance of 443.5 feet to Station 35+55.0, whence the NE Corner of Section 16 bears N 0°10' W for a distance of 304.0 feet.

(The above described parcel contains 6.30 acres, more or less)

Section 15: SW/4 and a tract of land containing 18 acres, more or less, located in the NW/4 and being more particularly described as follows: Commencing at the NW corner of said Section 15; thence South along the West line of said Section 15 to a point that is known as the Morgan Irrigation Ditch; thence along said ditch grade easterly to a point around where a steep rock wall ends; thence North (leaving ditch) to the East and West line on the North side of aforesaid Section 15; thence West on said line to the place of beginning.

EXCEPTING THEREFROM: A tract of land as described in Right of Way Deed from Fred D. Boice, Jr. and Robert M. Boice to the Board of County Commissioners of Moffat County, Colorado dated October 11, 1955 and recorded November 21, 1955 in Book 218 at Page 428, being more particularly described as follows:

Beginning at Station 35+55.0, a point on centerline from which the NW Corner of Section 15 bears N 0°10' W for a distance of 304.0 feet, a strip of land being 100.0 feet in width, 50.0 feet on either side of the following described centerline survey:

1. Thence bearing S 70°45' E for a distance of 667.6 feet to a point of curvature.
2. Thence left along a 10° curve for a distance of 49.8 feet to property line, whence the NW corner of Section 15 bears N 66°41' W for a distance of 1214.0 feet (lands in Moffat County, Colorado)

And

EXCEPTING THEREFROM: A tract of land as described in Deed from Robert M. Boice and Fred D. Boice, Jr. to School District No. 3 of Moffat County, Colorado dated December 27, 1955 and recorded February 3, 1956 in Book 221 at Page 349, being more particularly described as follows: A tract of land containing 1.84 acres, more or less in the NW1/4 of NW1/4 of section 15, Township

12N, Range 89 W of the 6th P.M., beginning at the NW Corner of Section 15 and bearing S 89°36' E for a distance of 370.4 feet to the SW corner of tract; thence bearing North for a distance of 432.4 feet to the NE corner of tract; thence bearing N 89°36' W for a distance of 200.0 feet to the NW corner of tract, whence the NW corner of the Section 15 bears N 89°36' W for a distance of 400.0 feet, to the point of beginning.

And

EXCEPTING THEREFROM: A tract of land as described in Deed from Warren Cogdill to Floyd E. Dodds dated April 18, 1961 and recorded April 28, 1961 in Book 290 at page 592 and being more particularly described as follows:

Beginning at the Northwest corner of Section 15 and bearing S 89°36' E for a distance of 650 feet to the Northeast corner of said tract, the true point of beginning. Thence bearing South to a point on the Southeast corner of the old school district tract; thence North 432.4 feet to the North line of Section 15; thence South 89°36' E 50 feet to the point of beginning.

And

EXCEPTING THEREFROM: A tract of land as described in Deed from Warren Cogdill to School District RE. No. 1 dated November 3, 1960 and recorded September 14, 1971 in Book 372 at Page 652, being more particularly described as follows:

Beginning at the NW corner of Section 15, Township 12 North, Range 89 West, 6th P.M., thence S 89°36' E, 600 feet to a point, thence South 432.4 feet to a point which is the SE Corner of the Old School District #3 tract; thence S 70°45' E 50 feet along the North right of way line of the County Highway to the True Point of Beginning of said tract which is described as follows:

Beginning at the True Point of Beginning, thence North to a point on the North line of said Section 15 a distance of 200 feet; thence N 70°45' W along the North Right of way line of the County Highway to the True Point of Beginning.

Township 12 North, Range 89 West, 6th P.M.

Section 25: N/2NW/4

Section 26: E/2NE/4

Township 12 North, Range 89 West, 6th P.M.

Section 34: Lot 14

Township 12 North, Range 89 West, 6th P.M.

Section 33: All those portions of Lots 8, 11, and 17 in tract 38 lying East of the East Right-of-Way line of County Road 1

Township 12 North, Range 89 West, 6th P.M.

Section 12: Lot 2

Township 12 North, Range 89 West, 6th P.M.

Section 13: SW/4NW/4, NW/4SW/4

Section 14: S/2NE/4

Township 12 North, Range 89 West, 6th P.M.

Section 14: NW/4NE/4

LANDS IN CARBON COUNTY, WYOMING:

Township 12 North, Range 89 West, 6th P.M.

Section 14: Lot 4(35.67), N/2SW/4

Section 15: Lots 1(35.80), 2(35.78), 3(35.76), 4(35.74), N/2S/2, N/2

Battle Mtn-Surface Use Agr - Fly Creek - March 8, 2004 #2

Township 12 North, Range 88 West, 6th P.M.

Section 7: Lots 7, 8, 9, NE/4SW/4

Sections 7 and 18: The North 40 acres of Resurvey Tract 38 being more particularly described as follows:

Beginning at corner #1; thence West 20 chains to corner #2,; thence South 20 chains to a point; thence East 20 chains to corner #6; thence North 20 chains to corner #1 and the point of beginning.

Sections 7 and 18: That part of Resurvey tract 38 in Sections 7 and 18 less that certain 40 acre parcel more particularly described as follows: Beginning at corner #1; thence West 20 chains to corner #2,; thence South 20 chains to a point; thence East 20 chains to corner #6; thence North 20 chains to corner #1 and the point of beginning.

Section 17: N/2SW/4, NW/4SE/4, Resurvey Tract 51 less and except the following described 78.40 acre parcel:

A part of Resurvey Tract 51 described as follows: Starting at a point on the Colorado-Wyoming state line 1050 feet East of the 172 mile post, said post being 169.62 feet East of the SW corner of Resurvey Tract 51; thence North 190 feet; thence North 71°30'E 1500 feet; thence North 49°East 770 feet; thence East 1560 feet; thence South 57°10'East 760 feet; thence South 750 feet to the Colorado-Wyoming state line and thence along the state line to the point of beginning. The same being a part of Lots numbered 1, 2, 3, and 4 of Section 17. The original Lots (numbered 1, 2, 3, and 4) are now designated as Resurvey Tract 51.

Section 18: Lots 10 and 11 lying North of Hwy. 70

EXHIBIT "B"

It is the intention of this Exhibit "B" to describe lands that Battle Mountain Co. owns a severed surface estate only and no mineral interest.

LANDS IN MOFFAT COUNTY, COLORADO:

Township 12 North, Range 89 West, 6th P.M.

Section 33: Lots 10 and 18

EXCEPTING THEREFROM: A tract of land described in Deed from Battle Mountain Co., a Wyoming corporation to Linda Cain Sasser dated August 30, 1993 and recorded September 1, 1993 in Book 673 at Page 01 and being more particularly described as follows:

A tract or parcel of land located in the NE1/4SE1/4 of Section 33, T.12N., R.89W., 6TH P.M., Colorado and being more particularly described as follows:

Beginning at the E1/4 corner of said Section 33; thence N 89°27'35" W 660 feet along the E-W Centerline of said Section 33; thence S 1°02'35" E 660 Feet; thence S 89°27'35" E 660 feet; thence N 1°02'35" W 660 feet along the east boundary of said Section 33 to the point of beginning.

Side lines are extended or shortened so as to terminate at the property lines. All bearings are based on a line between the E1/4 Corner and the SE Corner of Section 33, T. 12N., R.89., 6th P.M., Colorado being N 1°02'35" W.

Township 12 North, Range 89 West, 6th P.M.

Section 18: W1/2SE1/4

Section 19: Lots 6, 11, 13, 14, 15, 16

EXCEPTING THEREFROM: A tract of land out of parcel 18 being more particularly described as follows:

"Save and reserving 45.16 acres in the West Half of the Southeast Quarter (W1/2SE1/4) of Section 18 (18) for a reservoir site", as reserved in the Deed from L. M. Beavers to McPhail Sheep Co., dated January 11, 1930 and recorded February 15, 1930 in Book 76 at Page 378.

Township 12 North, Range 89 West, 6th P.M.

Section 19: Lots 7, 8, 9, 10, 17, 18, 19, 20

Section 20: Lots 11, 12

Section 29: Lots 3, 4

Section 30: Lots 5, 6, 7, 8, 9, 10, 11, 12, 15, 16

Township 12 North, Range 89 West, 6th P.M.

SECTION 9: Lots 1, 2

Township 12 North, Range 89 West, 6th P.M.

Section 12: Lot 1

Section 13: N1/2NE1/4, SW/4SW/4

Section 14: SE1/4, S1/2NW1/4, NE1/4SW1/4, W1/2SW1/4

Section 15: Lots 1, 2, 3, 4, 5, and 6

Section 22: Lots 1, 2, 8, 9, 16

Section 23: N1/2NE1/4, SE1/4NE1/4, E1/2SE1/4, NW1/4NW1/4, SW1/4NW1/4, W1/2SW1/4

Section 24: W1/2NW1/4, SW1/4

Section 25: A plot of land consisting of 4.65 acres (more or less) contained in a four hundred fifty (450) foot square acreage located in Northwest (NW) Corner of the Southwest Quarter (SW1/4) of the Northwest Quarter

(NW1/4) of Section Twenty-five (25), Township Twelve (12), Range Eighty-nine (89) West of the Sixth Principal Meridian as described in Deed from Gilbert L. Williams and Eva E. Williams to Warren Cogdill dated January 18, 1954 and recorded February 2, 1954 in Book 186 at Page 93.

Section 26: NW1/4NW1/4

Section 27: Lot 1

Section 34: Lot 14

LANDS IN CARBON COUNTY, WYOMING:

Township 12 North, Range 88 West, 6th P.M.

Section 6: Lot 8, E1/2NW1/4, W1/2NE1/4, NE1/4SW1/4

Tract 74 (Tract 74 was formerly described as Lots 3, 4 and S1/2NW1/4 of Section 5, and the SE1/4NE1/4 of Section 6, Township 12 North, Range 88 West; and the N1/2SW1/4 of Section 32, Township 13 North, Range 88 West of the 6th P.M. under the Original Survey)

EXCEPTING THEREFROM that portion of Tract 74 lying within Resurvey Township 13 North, Range 88 West of the 6th P.M.; and

EXCEPTING THEREFROM that portion more particularly described as follows: Beginning at Corner No. 11 of said Tract 74; thence South 5 chains to a point; thence West and parallel to Township lines between resurveyed Township 12 North and 13 North 40 chains, more or less, to a point on line 6 and 7 of Tract 74 to a point on said Township line; thence East along Township line to the point of beginning.

Tract 50 (Tract 50 was formerly described as the N1/2SW1/4 and NW1/4SE1/4 of Section 17, Township 12 North, Range 88 West of the 6th P.M.)

All that part of Resurvey Tract 51 described as follows: A part of Resurvey Tract 51 described as follows: Starting at a point on the Colorado-Wyoming state line 1050 feet East of the 172 mile post, said post being 169.62 feet East of the SW corner of Resurvey Tract 51; thence North 190 feet; thence North 71°30'E 1500 feet; thence North 49°East 770 feet; thence East 1560 feet; thence South 57°10'East 760 feet; thence South 750 feet to the Colorado-Wyoming state line and thence along the state line to the point of beginning. The same being a part of Lots numbered 1, 2, 3, and 4 of Section 17. The original Lots (numbered 1, 2, 3, and 4) are now designated as Resurvey Tract 51.

Township 12 North, Range 89 West, 6th P.M.

Section 10: SE1/4

Section 11: W1/2SW1/4