

EXHIBIT "B"
SURFACE USE AGREEMENT

Attached to and by reference made a part of that certain Oil and Gas Lease dated 9-30, 2010, by and between Robert E. Wagner, Jr. and Jan G. Wagner, as Lessor (also referred to herein as "Surface Owner"), and Chesapeake Exploration, L.L.C., as Lessee (also referred to herein as "Operator").

WHEREAS, Operator wishes to use a portion of Surface Owner's lands for Operator's proposed operations necessary to drill, complete, rework or re-complete, equip, operate, maintain, produce and plug and abandon any wells and thereafter restore the surface to as near it's original conditions as is practicable.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the parties herein contained, and other good and valuable consideration, the parties hereto AGREE AS FOLLOWS:

1. **Interpretation of This Agreement.** Notwithstanding anything to the contrary contained in the Lease, it is agreed and understood that the terms, provisions and conditions of this Agreement are agreed upon contemporaneously with the Lease and shall be construed consistently therewith. Where inconsistent, the terms of this Agreement shall amend and supersede the terms of the Lease.

2. **Said Land.** The Surface Owner owns the surface estate to the following described lands, hereinafter referred to as "Said Land" in Weld County, State of Colorado, to wit:

TOWNSHIP 11 NORTH, RANGE 65 WEST, 6TH P.M.

Section 8: NE/4, N/2NW/4, E/2SE/4;
Section 9: All;
Section 10: All;
Section 11: All;
Section 13: All;
Section 14: W/2;
Section 15: All;
Section 17: All;
Section 18: E/2;

Containing 4,800.00 gross acres, more or less
Weld County, Colorado

3. **Use of Surface.** That in order for Operator to enter, drill, complete, produce and operate oil and/or gas well(s) and related activities on Said Land as provided for in the Lease, it is necessary that it cross and use certain property of Surface Owner, and the parties do hereby agree as to the damages for disturbance to the surface of Said Lands, the right of entry and surface use thereof. For and in consideration of the hereinafter specified amounts, and subject to the conditions and restrictions herein and in the lease, Surface Owner hereby grants to Operator the right for it, its agents, employees and contractors, and their agents and employees, to enter upon the surface of Said Land for the purpose of conducting oil and gas exploration, drilling, production and marketing activities.

4. **Well Sites and Facility Sites.** Operator has agreed to pay a one-time payment in the amount of [REDACTED] per drilling pad which may include one or more wells for damages associated with the construction, maintenance and use of such location for drilling, completion, production and other related activities. In the event that a well is completed as a well capable of producing oil and/or gas, subject to the provisions hereof, Operator shall have the right to install tank batteries, compressor stations, oil and gas flow lines, pipelines, and any other facilities necessary for the production, storage, disposal, transportation and marketing of gas and/or oil from said location (drilling pad). Well sites and facility sites on Said Lands shall be limited in size to four (4) acres unless the parties mutually agree to a larger site, not to be unreasonably withheld. **In the event there are completed wells in Section 18 and Section 17, the following additional provisions will apply:**

(a) the flow line(s) from well(s) in Section 17 shall be constructed along or within the road described in paragraph 20 hereof, to the drilling pad in Section 18 at which location the tank battery for wells in Section 17 and Section 18 will be situated.

(b) In the event a well(s) is drilled and completed in Section 17 the drilling pad in Section 18, may, at the option of Operator, be enlarged to not more than five (5.0) acres in order to accommodate the additional tank batteries and production equipment from wells in Section 17.

5. **New Access Roads.** Whenever possible and unless Surface Owner objects, Operator agrees to use existing roads as of the date hereof for access to any new location utilized in connection with Operator's drilling, production, or other activities allowed hereunder on Said Land. Operator shall pay a one-time payment in the amount of [REDACTED] per rod as consideration for the construction, maintenance and use of any new roads, and/or significant modification of an existing primitive or two track road, and rights-of-way necessary for access to any new location utilized in connection with Operator's drilling, production, or other activities allowed hereunder on Said Land, the



existence and locations of which are subject to provisions of the lease and the provisions hereof. Operator shall consult with Surface Owner on the location of any new access roads so as to minimize the impacts to the surface of Said Lands to the greatest extent possible. Any new roads or modifications of existing roads shall in total be limited fifteen feet (15') in width for the actually traveled roadbed, plus any additional width required for drainage area. Surface Owner, and its employees, invitees and agents shall be entitled to use all roads constructed by Operator at their sole risk and responsibility.

6. **Pipelines and Powerlines.** Operator agrees that, whenever economically feasible, Operator will construct any pipeline and/or, subject to the provisions hereof, powerlines within the access road right-of-way, if one exists and shall be allowed to temporarily use additional land adjacent to the access road right-of-way for the pipeline and or powerline related activities and equipment and the placement of soil. If Operator determines it is unable to economically construct its pipelines and/or powerlines in the said access road right-of-way, Operator agrees to pay a one-time payment in the amount of [REDACTED] per rod (such consideration payable only if located outside of a road right of way for which payment is made pursuant to Paragraph 5, above) as consideration for a right-of-way and easement to lay, install, maintain, operate, replace, protect, repair, relocate, change and remove one or more pipelines, powerlines, flow lines, and any appurtenances useful and incident to the operation and protection thereof, for the transportation of oil and gas, or any other like or unlike substances which may be moved by and through a pipeline(s), and/or flow line(s), and appurtenances thereto, on over and through Said Land. Said Easement shall not exceed twenty feet (20') in width without the express written consent of Surface Owner except during construction, maintenance or repairs which will be thirty feet (30'), and Operator agrees to bury all pipe to a minimum depth of thirty six inches (36") and to restore the surface over the same as nearly as practical to its condition prior to the laying of the line or lines. In order to provide public notice of the existence of a pipeline, upon the request of the Operator, Surface Owner agrees to execute a formal "Pipeline Right of Way Grant" to be recorded in the county in which it is located. Operator shall back fill, compact, revegetate, and re-contour the area disturbed by Operator's construction, installation, repair, or removal of any power line or pipeline. Nothing herein shall entitle Operator to construct or install a pipeline(s) that that is a collection line or a transmission line transporting oil, gas, NGL's or other petroleum product or other material from wells unless it includes wells on the Said Lands or lands pooled therewith.

7. **Existing Well Pads and Access Roads.** Operator shall pay a one-time payment in the amount of [REDACTED] per rod as consideration for the use of any existing roads and rights-of-way necessary for access to any location utilized in connection with Operator's drilling, production, or other activities allowed hereunder on Said Land. Operator shall maintain said roads during its use of the roads for Operators operations. Without Surface Owner's written consent to the contrary, and as otherwise provided herein, Operator agrees that its vehicular entry onto the Sections 17 and 18 portions of Said Lands shall be from the West and South., and subject to paragraph 20 hereof.

8. **Cattle Guards and Gates.** Any road used to access Surface Owner's property from the exterior of Surface Owner's property will have a panel gate and two locks, one lock for the sole use of the landowner, and the other for Operator's employees, agents, contractors or contractor's employees. All such gates on the exterior of Surface Owner's property must be closed and locked at all times when not in use. In conducting its operations hereunder, should Operator cross any fence or barbed wire gate, Operator shall place a metal panel gate at such a crossing. Prior to drilling in Sections 17 or 18, Operator shall place an access gate at the Surface Owner's property line going into Section 18 which must be a panel gate that can be remotely activated by Surface Owner via security code and must open/close automatically.

9. **Fences and Reclamation.** Operator shall install livestock tight fences around any dangerous area, including, any pits, where Operator drills any new wells. Operator shall complete the recontour, reclamation and revegetate all areas disturbed by Operator's operations within twelve (12) months after termination of all activities at the site or right-of-way and said reclamation shall meet or exceed those standards required by all regulations of the State of Colorado and it's agencies, including the Colorado Oil and Gas Conservation Commission. Operator agrees to notify and consult with Surface Owner prior to cutting or damaging any fences, cattle guards, or other improvements of Surface Owner.

10. **Weeds, Dust and Debris.** Operator shall keep the roads, locations, well and facility locations and other areas utilized for its purposes, reasonably free from weeds, debris and litter and will properly maintain such areas in such a manner as to minimize interference with the Surface Owner's normal use of contiguous lands. Operator shall reasonably control the dust at its locations on roads used for its operations.

11. **Maintenance and General Operations.** Operator shall at all times reasonably 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, erosion and debris. Using reasonable efforts, Operator shall not allow or permit erosion to continue on any disturbed areas and shall promptly repair, reclaim and revegetate 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.

12. **Mud Pits.** Upon the conclusion of drilling operations by Operator on a location on Said Land, Operator will dispose of any trash and debris offsite and will fill and shall bury and level the mud

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pits and return Said Land to its original condition as nearly as is practicable within a reasonable and customary period of time. During its clean-up and burial of the mud return pit, Operator shall be allowed to let water in said pit evaporate and shall be allowed to use the entire drilling pad in its operation to reclaim said pit.

13. Water Without prior approval of the Surface Owner, Operator shall not claim, produce or use any water from any existing water wells owned by Owner, reservoirs, creeks, springs or undesignated ground water. All water produced from Operator's operations shall be discharged only in accordance with the State of Colorado regulations.

In the event approval is given by Surface Owner for the drilling of a water well by Operator, upon permanent cessation of use of any water well drilled by Operator on Said Lands, Operator shall notify Surface Owner in writing of its intent to abandon such well and Surface Owner shall have the right, for a period of thirty (30) days after receipt of such notification, to assume ownership and control of the water well. Surface owner shall notify Operator in writing of its decision whether to assume ownership of the water well. If ownership and control of the well is transferred, Surface Owner shall assume all liability associated with the water well.

14. Set Backs Operator shall not conduct any operations, including seismic testing, well drilling or other surface disturbing activities, within five hundred (500) feet of any water well, except for seismic testing which shall have a setback of 900 feet from water wells located on Said Lands without the prior written approval of the Surface Owner, such approval not to be unreasonably withheld.

15. Riparian Areas Operator shall not locate any well sites, access roads, or to the extent reasonably feasible, pipelines and power lines in riparian areas on Said Lands. If the locations of such facilities in riparian or irrigated areas are desired, Owner shall consult with Surface Owner on the exact location, timing, size and other aspects of locating facilities in riparian areas and irrigated fields prior to any work commencing.

16. Saltwater Disposal No well on Said Lands shall be used as a salt water, brine or other disposal well without separate written permission (in addition to this lease) from Surface Owner.

17. Damages Operator shall pay for all additional damages actually caused by its operations, including any damage to water wells. This includes payment for damages actually caused by Operator's seismograph operations. A surface damage agreement shall be executed before commencement of drilling operations.

18. Operation Limitations As to the production facilities and operation of a well should oil or gas be found and produced, at a minimum the following shall control:

i. Operator shall utilize a pit liner on all pits dug to hold drilling fluids or waste water during drilling or reworking or workover operations. Such pit liner shall be sufficient to prevent escape of drilling fluids or waste water from escaping the pit and being spilled, or leaked on or into the ground; Operator shall be strictly liable for any such escaping fluids and any damage they may cause.

ii. Any pumping unit on Sections 17 and 18 of the Said Lands shall not be powered by a diesel generator unless necessary on a temporary basis,

iii. All operations shall comply with the 800 series Regulations of the Colorado Oil and Gas Conservation Commission (COGCC), entitled Aesthetic and Noise Control Regulations, and in particular, Section 802, including without limitation subsection 802 c, as of April 9, 2009, for Residential/Agricultural/Rural areas.

19. Surface Locations For Wells Without the written consent of Surface Owner, Operator shall have no more than two (2) well sites or facility sites per section, on the Said Land, for the drilling and production of wells. Each such site shall encompass no more than four (4.0) acres per site., except as otherwise provided in Paragraph 4 (b), above.

20. Section 18 and 17 Surface Operations The parties agree that Sections 17 and 18, Township 11 North, Range 65 West if the 6th P.M., Weld County, Colorado (herein Sections 17 and or 18 as the context requires) are subject to greater surface use restrictions than the balance of the leased premises. The following restrictions on surface use apply to such sections:

a) It is agreed that no wells may be drilled in Sections 17 and 18, until a minimum of four (4) wells have been drilled in not fewer that four sections of the Said Land, or lands pooled therewith.

b) Notwithstanding anything herein to the contrary, Operator shall be allowed to place one (1) essentially rectangular well site and facility site, encompassing no more than four (4.0) acres, in each of (i) the NW/4 NE/4 of Section 18 (except as may be enlarged pursuant to

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Paragraph 4(b)) and (ii) the NW/4 NW/4 of Section 17, the North boundary of which Section 17 location shall be not more than 300 feet from the North Section line. The West boundary of the pad in Section 17 shall not be further than 300 feet from the West section line unless such location is not reasonably feasible in which event, the exact location will be subject to the reasonable consent of the parties, which consent shall not be unreasonably withheld by either party.

- c) The sole access road to both sections shall begin at approximately the Southwest corner of the East one-half of said Section 18, thence north along or near to and generally parallel to the North South Centerline of section 18 to the Northwest corner of the Northeast Quarter Section 18 and for access to Section 17, the road shall continue east along the North line of Section 18 to the drilling pad for Section 17. The precise access route to the sites shall be mutually agreed to by Surface Owner and Operator prior to Operator's operations in connection therewith. Such mutual agreement shall not be unreasonably delayed or withheld by either party.
- d) Section 17 surface use shall be further restricted to drilling and completing a well(s) in the drilling pad and authorized surface use will be any well-bores and pumping equipment as needed plus installation of flowlines, which shall take product from the well site(s) in Section 17, along the access road to the tank battery in Section 18. Subsequent operations at the well-bores such as refracing, reworking, deepening, recompleting and other needed work within the well-bore(s) will be permitted. However, the production equipment shall, insofar as is reasonably practical shall be located on the drilling and facilities pad in Section 18.
- e) Except as permitted herein, there shall be no other surface operations in Sections 17 and 18, than those specifically permitted in this Paragraph 20..
- (f) For purposes hereof, surface operations shall include roads, powerlines, any above ground structures or equipment, pipelines, flowlines, well-bores, tank batteries, compressors and any other facility, tangible personal property or otherwise used in connection with the exploration, development or production of oil, gas or other hydrocarbons, vehicular movement, walking, riding and any other activity or conduct on the surface of the land, but excluding directional or horizontal drilling.

21. **No Rights On Other Lands.** The rights of ingress and egress, together with the right to use the surface of the Said Land for exploration, development and production of oil, gas and related hydrocarbons ("Products") and production of Products shall be limited to: 1) the surface of the lands here leased and not any other or adjacent lands owned by Surface Owner; 2) exploration, drilling, and production of Products lying under the lands described in the lease or lands pooled or spaced by governmental or agency action with the lands described. However, should Surface Owner own adjacent lands not leased hereby which Operator must reasonably cross to conduct its operations hereunder, Surface Owner and Operator shall enter into a reasonable surface agreement covering the adjacent land owned by Operator. Such an agreement shall not be unreasonably delayed or withheld by Surface Owner.

22. **Prior Notice.** Operator agrees that prior to any entry upon Said Lands for conducting geophysical surveys, drilling any well, or constructing any access road, production and/or marketing facility on Said Land, it will notify Surface Owner no less than 48 hours prior to entry and shall consult with Surface Owner in order to minimize interference with Surface Owner's normal use of Said Land and impacts resulting from Operator's activities. No notice shall be required for normal operations including, but not limited to, surveying, pumper visits, transporting production, routine maintenance, or wellbore repairs.

23. **Dogs and Firearms.** Operator agrees that no dogs, firearms, fishing or hunting will be allowed on Said Lands at any time without the express written consent of the Surface Owner and that Operator will notify all of its contractors, agents and employees of this restriction and take all reasonable steps to enforce this restriction.

24. **Release.** The compensation to be paid by Operator to Surface Owner hereunder shall release and discharge Operator, its agents and employees from all claims, losses, demands and causes of action for damage to surface of the Said Lands, loss of and damage to crops and growing forage hereafter arising as a result of Operator's drilling, producing and marketing operations on Said Land, except such damages or losses which are caused by the negligence of Operator, its agents and employees. Operator will remediate and/or compensate Surface Owner for any "unusual" damages such as oil or salt-water spills or contamination to or material decrease in the amount of domestic and stock water, and loss of livestock as a result of operations by Operator, its agents or employees. All livestock lost, injured or killed as a result of Operator's activities on Surface Owner's lands shall be paid for at market prices. Damages for environmental contamination or damage payable by the Operator shall include, but not be limited to, the cost necessary to remediate the site (Operator does not remediate), the cost of drilling a replacement water source for Surface Owner (unless Operator drills such replacement water well at operator's sole expense), all fines incurred by the Surface Owner by a governmental

authority, and for nonuse of the contaminated land by Surface Owner.

25. **Indemnity.** Operator shall, and hereby expressly agrees to defend, indemnify and hold Surface Owner, its successors, assigns, employees, heirs, personal representatives, shareholders, officers, directors, trustees and agents, harmless from and against any and all loss, expense, liens, claims, demands and causes of action of every kind and character, for death, personal injury, property damage or other liability, damage, fine or penalty, including costs, attorney fees and settlements arising out of or in connection with the operations of Operator and associated work performed by Operator or its agents, contractors, subcontractors, affiliates, employees, invitees or licensees.

26. **Compliance With COGCC Rules.** All operations shall comply with Rules and Regulations of the Colorado Oil and Gas Conservation Commission.

27. **Law.** This agreement shall be governed and construed in accordance with the laws of the State of Colorado.

28. **Assignment.** This Agreement shall be binding upon and shall be for the benefit of the parties hereto, their respective heirs, successors and assigns. Any sale by Surface Owner of his interest in Said Land shall be made subject to the terms and conditions of this Agreement.

29. **Notification.** Any notice required or permitted to be given hereunder shall be deemed to be delivered when deposited in the U.S. Mail, postage prepaid, certified with return receipt requested, or registered mail, addressed to the party to which it is intended at the address set forth below for such party:

If to Surface Owner:
18925 Weld County Road 128
Nunn, Colorado 80648

If to Operator:
P.O. Box 18496

Oklahoma City, Oklahoma 73154
Attn: Land Manager – Rockies
Phone: (405) 935-1568
Fax: (405) 935-4251

Initials of Lessor

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Initials of Lessee

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END OF EXHIBIT "B"