

SURFACE USE, ACCESS AND RIGHT-OF-WAY AGREEMENT

THIS SURFACE USE, ACCESS AND RIGHT-OF-WAY AGREEMENT, ("Agreement") dated effective this 12th day of July, 2010, is made by and between Jerry Gunderson, as General of Gunderson Ranch Partnership, LLP and as Personal Representative of the Estate of Edwin Gunderson, Jr., Deceased and as Personal Representative of the Estate of Norva A. Gunderson, Deceased, 1021 Pritchard Mesa Court, Grand Junction, Colorado 81505, hereinafter referred to as "Owner" and Delta Petroleum Corporation, whose address is 370 17th Street, Denver, Colorado 80202, hereinafter referred to as "Delta."

WHEREAS, Owner purports to own the surface of the following described property located in Mesa County, Colorado:

See Exhibit A.1 (Delta Lands) and Exhibit A.2 (Gunderson Lands) attached hereto for legal description of the property which is the subject of this Agreement

(hereinafter called the "Property"); and

WHEREAS, Delta intends to drill multiple wells from multiple pad locations located on the Property as agreed to by Owner and Delta; and

WHEREAS, Owner and Delta wish to memorialize their agreement concerning surface use and the payment for damages to the Property in connection with the drilling, construction, completion, recompletion, reworking, re-entry, production, maintenance and operation of the well(s), access roads, and all pipeline(s), tank batteries and other facilities on the Property by Delta, its affiliates, successors or assigns.

NOW 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 Delta agree as follows:

Article I: Wells and Wellpads:

A. Delta shall have surface locations on the Property, (hereinafter called "Wellpad" or "Wellpads") which are to be located as more fully set forth on the Map attached to this Agreement as Exhibit B and made a part hereof by this reference. Delta's final construction plans for Wellpads may determine that the Wellpads need to be relocated or additional Wellpads may be required to develop Delta's leasehold. Delta may not relocate said Wellpads or locate additional Wellpads on the Property other than as depicted on Exhibit B attached hereto unless agreed to in writing by Owner, which consent shall not be unreasonably withheld. Delta agrees to locate on such Wellpads any and all compressors and/or other oil and gas facilities placed on the Property, excepting pipelines and roads. This agreement shall limit compressors on the Property to 350 name plate horsepower or less, and does not authorize the placement of any gas treatment or gas processing facility on the Property, other than standard wellsite separation, artificial lift equipment, dehydration equipment and tank batteries.

- B. Each Wellpad shall be approximately four and one-half (4.5) acres to five (5) acres or less in size during drilling operations and reclaimed to a production area of 300 feet by 450 feet or less upon completion of drilling operations. In addition, Delta may drill directionally from any Wellpad such that the bottom-hole may be located on fee or federal minerals outside the Property, so long as Delta has no more than twelve (12) Wellpads on the Property.
- C. Prior to the construction of a Wellpad, Delta shall remove the top six inches (6") of topsoil and stockpile such topsoil within the confines of the Wellpad for future reclamation. Any trees that are larger than four inches (4") in diameter that are removed as a result of building each Wellpad, access road or pipeline shall be cut in lengths no greater than twenty four inches (24") and shall be delivered and stacked at a reasonable location on the Property as agreed to by Owner and Delta.
- D. Each reserve pit and blow pit shall be fenced by Delta. Delta shall at its sole cost install fencing around any equipment that requires the installation or construction of containment structures or berms to comply with safety regulations. Fencing shall be installed in such a manner to prevent domestic livestock from entering such fenced area.
- E. Unless it is not possible to do so, Delta will centralize production equipment at one location on each Wellpad. Delta will use reasonable efforts to locate production and gathering facilities together with related pipelines and valves at the production equipment site on the Wellpad and will install remote monitoring and control equipment in order to reduce vehicle traffic to and on the Wellpads. Delta shall endeavor to diligently pursue any drilling operations to minimize the total time period for drilling operations and to minimize rig relocations or startup during the course of drilling. In addition, Delta will use good faith efforts to minimize the aesthetic and noise impact of the equipment located on the Wellpads and any of its other equipment located on the Property. The Wellpads will be constructed as shown on the attached Exhibit A.3 and made a part hereof by this reference.

- F. Delta shall cause its facilities and equipment, including tank batteries, to be painted in a color which blends with the environment.

Article II: Article II: Existing Road Access and Road Access Construction:

- Delta's access to the Property shall be limited to the proposed access roads as agreed to by Owner and Delta and identified on Exhibit B attached hereto and incorporated by reference (hereinafter the "Road(s)") or any such substitute access road(s) as mutually agreed to in writing by the parties. The existing road offsetting the old homestead place that will provide access for Pad NV20B located in Section 20 T9S-R93W shall be extended to the north and the existing bridge near County Road #330 may be upgraded by Delta at its sole cost and expense to provide access to proposed Wellpads located on Delta surface and Delta surface to be conveyed to Owner. Delta shall not construct such extension until Owner approves the location of such extension in writing, which approval shall not be unreasonably withheld.
- A. All equipment, vehicles and personnel related to Delta's operations on the Property shall access such lands through the Road(s) or any substitute access road mutually agreed upon in writing by the parties.

B. At Owner's option and upon reasonable written notice to Delta, Owner may require Delta to utilize one or more reasonable alternative access roads for any portion of oil and gas operations on the Property; such point(s) of entry and any necessary additional roads shall be constructed and maintained by Delta at its sole cost and expense. However, Delta shall be permitted to use the Road(s) identified on Exhibit B until such other mutually agreeable access road has been constructed.

C. The Road(s) will be upgraded and graveled as agreed to in writing by the Owner and Delta. Culverts will be placed, where necessary, in low areas for proper drainage. At Owner's request, Delta will gate and keep locked at all times the Road(s) to the Wellpads.

D. Delta shall maintain the Road(s) or any other road utilized by it on the Property, with an adequate crown and in good and passable condition at its sole cost and expense. Delta shall post twenty-five (25) miles per hour speed limit signs on individual Roads, at sites mutually agreeable to Owner and Delta and shall apply magnesium chloride to all roads used by Delta at the request of the Owner to limit dust (Delta shall not be required to apply magnesium chloride to any road more than two times per annum).

E. In accordance with the terms of this Agreement, Owner does hereby grant, bargain, convey and confirm unto Delta, a non-exclusive easement and right-of-way ("Road Easement"), as limited herein, to construct, maintain, and remove the Road(s) for ingress and egress across the Property to the Wellpads. The Road Easement shall be 50 feet wide during construction of any Roads, reverting to 25 feet in width once construction is complete. The existing Road(s) and approximate location of the Road(s) are at the location identified on Exhibit B. Delta shall provide Owner an "as built" survey of the Road(s) constructed hereunder, which may be recorded in Mesa County, Colorado at the Owner's option.

F. No off road travel is permitted, and particularly no off road travel which has the effect of widening the road or area of disturbance.

Article III: Pipelines:

A. Pipeline routes shall be mutually and reasonably selected by Owner and Delta based on topography, surface use, reclamation, distance and configurations of the pipeline routes. Access across the Property to compressor sites, gas facilities and water disposal facilities located off of the Property shall be mutually and reasonably selected by Owner and Delta. Delta will endeavor to accommodate any reasonable concerns or issues that Owner may have with the placement of and/or operation of any pipelines, however, Owner's consent to any pipeline route shall not be unreasonably withheld. To the maximum extent possible each pipeline shall be located in or adjacent to the Road Easement in accordance with subparagraph B below or shall be located as reasonably close as possible to the boundaries of the Property (such as governmental section lines). Delta shall not be authorized to transport gas and water produced from wellpads not on the Property through the pipelines located on the Property. Excepting all wellpads identified on Exhibit B, Delta shall enter into a separate right-of-way agreement with Owner prior to the installation of any transportation or transmission line to be used to transport gas and water produced from wellpads not on the Property.

B. In accordance with the terms and subject to the limitations of this Agreement, Owner does hereby grant, bargain, convey and confirm unto Delta a non-exclusive easement and right-of-way ("Pipeline Easement") to lay, construct, maintain, operate, repair, replace, and remove pipelines, together with all necessary valves, connections, and fittings for the transportation of oil, gas, and produced water, and to erect, maintain and remove cathodic protection equipment on, over, under, through and across a strip of land sixty (60') feet in width centered on the adjacent Road. There can be two (2) pipelines within the Pipeline Easement, one for gas and the other for water. The Pipeline Easement shall revert to ten (10') feet in width after initial construction. All pipelines shall be buried at least 48 inches below the surface of the ground and shall be double ditched with soil compaction and restoration of topsoil to the surface. Except as otherwise provided herein, in no event shall Delta lay or construct a gas, water or any other transportation pipeline on the Property without the written agreement of the Owner.

C. At Owner's option and upon reasonable written notice to Delta, Owner may require Delta to relocate the Pipeline(s). At the time or times that Owner desires to have Pipeline(s) relocated, it shall give written notice to Delta, which shall promptly prepare, or commission the preparation of, a cost estimate to perform the relocation. Such cost estimate shall include a 10% markup for administrative, supervision and other overhead costs related to the relocation. Delta will provide the cost estimate to Owner as soon as practicable, and Owner will thereafter determine whether to proceed with the relocation. If Owner elects to have Pipeline(s) relocated, it shall pay the estimated or actual costs, whichever is less, and markup to Delta and request in writing that the Pipeline(s) be relocated. Delta shall commence operations to relocate the Pipeline(s) as soon thereafter as is practicable. The route of any Pipeline as relocated shall not interfere with normal pipeline operations including maintenance activities such as pigging the line. If and when any pipeline is relocated on the Property, the route of the Pipeline Easement shall be relocated consistent therewith.

D. Delta shall not locate and/or construct compressor stations or gas, water or any other transportation pipelines on the Property, which activities may only be done by separate written agreement of the Parties.

E. Delta shall provide Owner a recorded "as built" survey plat of the pipelines which may be recorded in Mesa County, Colorado at Owner's option.

Article IV: New Electric Power Lines Construction:

A. Delta may install electric power lines on the Property within the Road Easement or Pipeline Easement for the sole purpose of transporting and distributing electricity to Delta's operations on the Property. The Owner shall have a right to connect to such electric power lines without participation fee or other charge, however, the Owner shall pay for their own connecting equipment and meters as well as for electricity used.

B. Electric power line routes within the Road Easement or Pipeline Easement shall be mutually and reasonably selected by Owner and Delta based on topography, distance and configuration of electric power line routes, existing and anticipated future operations.

Article V: Gravel, Stone and Water:

Delta shall not use or remove gravel or stone from the Property unless agreed to in writing by Owner. In addition, Delta shall not disturb, interfere with, fill or block any creek, reservoir, spring, ditch or other source of water on the Property. In the event that the Delta damages any creek, reservoir, spring, ditch, water well or other source of water on the Property, then Owner shall be entitled to damages separate and apart from any damages paid pursuant to this Agreement.

Delta shall not discharge any water from any of its wells on to the surface of the Property. Delta can inject produced and/or fresh water into the formation for fracing purposes, but shall not drill any disposal wells or waste injection wells on the Property unless it has entered into a written agreement with Owner to do so. To the extent water is produced in connection with operations, such water cannot be sold and shall be disposed of pursuant to all applicable laws.

Article VI: Surface Consultation:

Execution of this Agreement hereby specially waives the 30 day notice requirement contained in Rule 305 and satisfies the consultation requirement contained in Rule 306 of the Rules and Regulations of the Colorado Oil and Gas Conservation Commission ("COGCC") with respect to any and all wells drilled from the Wellpads on the Property.

Article VII: Payments:

A. All payments due hereunder shall be delivered to Owner at the address set forth in the recital above. In the event of a change of ownership relating to either the Property or the right(s) to receive any payment(s) hereunder, Delta shall not be bound by same until it is furnished with satisfactory recorded evidence of said change of ownership. Further, Owner and Delta acknowledge and accept that the provisions of this Agreement, including the rights to those payments contemplated hereunder, are covenants which touch and concern the Property and therefore run with the Property, and that none of the rights or obligations contained herein may be severed from the ownership of the Property. All payments made hereunder by Delta shall always and only be payable to the respective owner(s) of the Property.

B. Delta shall pay Owner as compensation for the Wellpad, the Road Easement and Pipeline Easement in those amounts and upon those payment terms as mutually agreed upon by the parties and memorialized in a separate Exchange Agreement of even date herewith. The payments described in this Article VII shall constitute payment in full by Delta 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 wells on the Wellpads. Except as otherwise provided for herein, normal damages include, but are not limited to, reasonable and customary ingress, egress, rights-of-way, construction of the Road(s), preparation and use of the Wellpads, 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, to the extent such construction and use complies with the terms of this Agreement.

Article VIII: Noise:

Delta will comply with all applicable noise regulations as required under the rules and regulations set forth by the COGCC or the Bureau of Land Management or other applicable regulatory body as applicable to the Property.

Article IX: Interim Reclamation:

A. The following areas shall be exempted from the interim reclamation requirements (except for weed control) set forth herein: i) the driving surface and bar ditches of the Road, and ii) the production area (not to exceed approximately 300 feet by 450 feet) at the Wellpads. Each area of surface disturbance which is not included in the exempted areas and is no longer necessary for drilling operations shall be restored as near to its original condition as feasible by the Delta in the following manner:

1. the disturbed area shall be ripped and recontoured to conform with existing grade and no recontoured slope shall exceed a grade of five linear feet to one foot in elevation;
2. the topsoil shall be separated at the time of excavation of pits so that the topsoil and subsurface soil may be placed back in proper order as nearly as possible;
3. weed free topsoil shall be replaced on the disturbed area to a quality and depth which meet its original condition, as near as practicable;
4. the disturbed area shall be revegetated utilizing a weed free seed mixture, application rate, timing and reseeding method pre-approved by the Owner; if vegetation comparable to the original condition of the site is not established, such reseeding shall be continued until such vegetation is established;
5. all chemicals, foreign substances, pit liners, contaminated soil and trash, together with all equipment which is not required to sustain production from the well shall be removed from each disturbed area;
6. erosion resulting from Delta's operations shall be adequately controlled and remediated; and
7. noxious weeds shall be fully and adequately controlled on such disturbed areas together with any adjacent areas on the Property to which such weeds have spread from disturbed areas. No foreign (from off the Property) soil or seed shall be used on the Property unless such soil or seed is certified as "weed free" by Delta,

Such interim reclamation shall be completed by Delta within twelve (12) months (weather permitting) of the rig release from the Wellpad if another well is not commenced during such period.

Article X: Final Reclamation:

A. Except as consented to in writing by Owner, each well shall be plugged and abandoned by Delta in accordance with the applicable law and the rules and regulations of the COGCC upon permanent cessation of production of each well. Weather permitting, within thirty (30) days

following the plugging and abandonment of each well, all surface equipment and surface appurtenances shall be removed by Delta from the Property and all unreclaimed and/or un revegetated areas previously disturbed by Delta's operations shall be reclaimed by Delta in accordance with the standards set out in the Article captioned, "Interim Reclamation" above.

B. At least 30 days prior to reclamation of the Road or any portion thereof, Delta shall provide Owner written notice of such roadway reclamation, which shall include a plat of the portion of the Road to be reclaimed. During the period prior to reclamation, Owner may elect to retain any such portion of the Road for ranch use by giving written notice to Delta. Upon receipt of Owner's election to retain such portion of the Road, Delta shall blade the Road into good and passable condition, and shall thereafter be relieved of its obligation to maintain and/or reclaim such portion of the Road.

Article XI: Use And Enjoyment:

Except for the Wellpads and the access roads and easements associated with Pipelines as provided for in this Agreement, Delta shall not occupy the surface of the Property except in the event of an emergency or for reasonable incidental, temporary and non-damaging activities, for which the Delta shall be strictly and solely responsible for any damages that may occur.

Delta's surface use pursuant to this Agreement shall be non-exclusive. Owner shall have to right to use the surface and subsurface of the Property for any lawful purpose and in any manner which does not unreasonably interfere with Delta's operations, including without limitation, construction, installation and use of roads, utilities, ditches, wells, irrigation and water impoundment structures, trails, fences and buildings. Further, Owner retains the exclusive right to grant rights-of-way, easements, rights to surface use to parties other than the Delta and the right to grant hunting and fishing rights. Owner agrees not to construct water impoundments or structures which would interfere with Delta's actual surface use.

Article XII: Gates and Fences:

A. In the event parties other than Delta and Owner have access over any private road located on the Property, Delta agrees to construct and maintain, at its expense and in good condition, four strand smooth wire fences at the outer edge of the bar ditch on each side of such road, in a manner that permits the reasonably safe and natural passage of wildlife across the Property.

B. Delta shall promptly restore all fences which may have been damaged by Delta's operations on the Property to as good a condition as such fences were prior to such operations. When any fence upon the Property is required to be opened, such opening shall not be left unattended without a good and sufficient gate or fence capable of turning domestic livestock. All permanent openings in fences shall be reinforced by installing "H" braces six feet (6') in width, which are constructed of wooden posts at least six inches (6") in diameter on both sides of such opening prior to cutting the fence, which shall be attached to the "H" braces.

C. Delta shall install and maintain in good condition, at Delta's expense, a sixteen (16) foot gate, "H" braces (as described above) and adequate fences across and adjacent to private roads on the Property to prevent third party vehicles from entering the Property at the point the Road

enters the Property from adjacent public or private lands and at each point the Road constructed hereunder intersects a road utilized for public access across the Property. Delta agrees to install a cattle guard at each point where fences cross roads and to construct fences adequate to prevent driving around such gates. The foregoing requirement shall be applicable only in those instances where Delta utilizes such roads for its operations.

D. Delta agrees that such gates, cattle guards, "H" braces, and fences shall be maintained by Delta in good and operable condition and that all private, exterior gates, together with any other gate designated by Owner from time to time, shall be locked at all times (except when being used for passage of equipment, vehicles, personnel or when a gate guard is posted).

E. Under no circumstance will Delta be required to block public access or lock gates on any public access road that crosses the Property. In the event such public access is inconsistent with the requirements of this Article XII, Delta and Owner agree to utilize all reasonable means to bring public access into compliance with the terms and conditions set out in Article XII.

Article XIII: Prohibited Non Oil and Gas Activities:

Delta shall not permit its agents, employees, contractors, subcontractors, or service company personnel to possess or use drugs or alcohol or carry firearms, archery equipment, wildlife calls, weapons, spotting, optical or night vision equipment (other than as required for oil and, gas operations), or to bring dogs or other animals on the Property. Nor shall Delta permit such persons to bring friends or family onto the Property nor to picnic, barbecue, transport firewood, cut Christmas trees, hunt or injure wildlife, nor remove pine nuts, artifacts, vegetation, or other non-oil and gas materials from the Property. Owner shall have the right to exclude any agent, employee, contractor, subcontractor or service company personnel from the Property for violation of this provision or any other rules regarding the Property imposed by the Owner.

Article XIV: Monitoring of Delta Operations:

All exterior gates on the Property shall be kept locked. Owner may utilize a separate lock for its locks to the Road and gates on the Property, however, neither party shall lock each other out of the Property. Upon execution of this Agreement quarterly thereafter, Delta will provide the Owner with an updated written list of each individual and entity in possession of such access key. Delta will also provide Owner with a twenty-four hour/seven day a week emergency contact number. Further, Delta agrees not to permit nor authorize entry onto the Property by any person who is not required to conduct its oil and gas operations on the Property.

Article XV: Livestock:

Delta agrees to pay the fair market value for all domestic livestock killed or injured by its operations on the Property. In the event Delta requires an animal autopsy or other scientific evidence prior to reimbursing the Owner for livestock loss, Delta will secure and pay for such investigation and obtain any required analysis, which shall be promptly provided to the Owner.

Article XVI: Indemnification and Insurance:

Without limiting Owner's rights or Delta's obligations herein, Delta agrees to defend, indemnify and hold Owner harmless against any and all loss, damage, claims or liabilities arising

{00817075 / 2}

from or in any manner connected with Delta's operations or the operations of Delta's agents, contractors or subcontractors hereunder. This obligation to indemnify shall include the payment by Delta of Owner's reasonable attorneys' fees and investigation costs, as well as any other costs and expenses connected with any claim asserted.

Delta agrees to maintain during the term of this Agreement, at its sole cost and expense, appropriate insurance coverage, including a comprehensive general liability insurance policy, or other such insurance as may be reasonably required by Owner, against claims and liability for personal injury, bodily injury, death and property damage arising from Delta's use, occupancy, presence on or operations on the Property, in the minimum amount of \$1,000,000 per occurrence, and not less than \$2,000,000 in the aggregate, proof of which shall be furnished to Owner upon request. When requested in writing to do so, lessee agrees that it will make reasonable efforts to ensure that specified contractors and subcontractors, who provide services of any kind to Delta on the Property, carry appropriate insurance coverage, including a comprehensive general liability insurance policy, or other such insurance as may be reasonably required by Owner for any damages, against claims and liability for personal injury, bodily injury, death and property damage arising from such contractors and subcontractors use, occupancy, presence on or operations on the Property, in the minimum amount of \$1,000,000 per occurrence, and not less than \$2,000,000 in the aggregate, proof of which shall be furnished to Owner upon request. Owner shall be named and protected under the terms and conditions of any such policies as an additional insured.

Article XVII: Compliance With Laws and Construction:

Delta shall conduct its operations in a manner which fully complies with applicable federal, state or local statutes, laws, ordinances, rules, regulations and shall comply with lease terms and stipulations set forth in the oil and gas lease between Delta and Owner or any other oil and gas lease covering the Property, if any, except when prior written consent of the Owner is obtained.

Article XVIII: Liens:

Delta shall keep the Property free of any liens or encumbrances caused by any act or omission of Delta, including any mechanic's liens or any other liens for labor or materials. Delta shall indemnify and hold Owner harmless from and against any and all claims and liens upon the Property or any other of the Owner's lands for labor and materials furnished by or to Delta.

Article XIX: Environmental Issues:

Delta shall give Owner prompt notice of any of the following occurrences arising with regard to the Property or Delta's activities thereon:

1. any spill, release, threatened release, or other occurrence that would constitute a violation of the provisions of any applicable laws, rules or regulations;
2. the notification of any events set forth in the preceding paragraph to any federal, state or local governmental agency or authority;

3. any notices, claims or allegations of environmental violations or contamination received from any federal, state or local governmental agency or authority or the filing or commencement of any judicial or administrative proceeding by any such agency;
4. the filing or threatened filing of any judicial or administrative proceeding by any private agency, entity, or person alleging injury or threat of injury to the Property, or to health, safety or the environment and relating to the Property.

Delta shall indemnify, defend and hold Owner harmless from and against any and all damages, claims, causes of action, actions, losses, liabilities, fines, costs and expenses (including without limitation reasonable attorneys' fees, expenses and costs of investigation or trial) resulting from Delta's failure to comply with any environmental law, ordinance, rule or regulation or that otherwise arise in any way out of Delta's operations on the Property.

Article XX: Equipment:

Delta will not allow the stacking of any drill rig equipment or the storage of any other equipment or materials of any kind not needed in the daily operation of Delta's activities on the Property for more than five (5) days. Delta shall not dispose of any equipment, lubricants, parts or any other items of equipment or materials on the Property but shall properly dispose of them off of the Property and other lands of the Owner.

Article XXI: Access:

Except as otherwise provided in this Agreement, nothing in this Agreement shall be construed to permit the use of the Property for Delta's operations on any lands other than the Property nor shall the access to the Property permitted hereunder be used for access to any lands or operations other than those conducted on the Property.

Article XXII: Termination:

The rights granted by Owner to Delta shall terminate when any of the following events occur: a) all of the leases under which Delta is conducting its operations on the Property terminate; or b) when Delta ceases its operations on the Property (being when all wells are plugged and abandoned); or c) upon Delta's written notification to Owner of Delta's intention to cease its operations hereunder; or d) if Delta is determined by a court or arbitrator to be in material breach of any provision of this Agreement, which breach remains uncured ninety (90) days after Owner notifies Delta in writing regarding the same. Upon termination, Delta will execute and deliver to Owner a good and sufficient recordable release and surrender of all of Delta's rights hereunder and under the leases and will promptly remove all equipment and property used or placed by Delta on the Property unless otherwise agreed to in writing by the Owner.

Upon the termination, Delta shall surrender the Property to Owner and shall leave the Property in a condition, which complies with all applicable laws and lawful governmental rules, regulations and orders. Owner, in its sole discretion, may chose to either allow any Roads, Pipeline(s) or power lines to remain in place or require Delta to remove the same. Unless otherwise requested by Owner, all disturbed areas, including but not limited to roads (other than

pre-existing roads), well sites, well pads, removed pipelines and power lines will be reclaimed, restored and reseeded by Delta in accordance with the standards set out in this Agreement.

Unless Owner otherwise agrees in writing, upon termination, Delta shall fully restore and level the surface of the Property affected by Delta's activities to as near as practicable to the contours which existed as of the date of this Agreement. Delta shall use water bars and such other measures as appropriate to prevent erosion and non-source pollution. Delta shall fully restore all drainage and irrigation ditches disturbed by Delta's operations as near as possible to the condition, which existed prior to such operations. All restoration and reseeded shall also be accomplished to the satisfaction of Owner and as near as possible to the condition, which existed prior to such operations. Termination shall not relieve Delta of any duties or obligations incurred prior to termination, including but not limited to Delta's obligations under Articles IX, X and XXII hereof.

Article XXIII: Memorandum of Agreement:

Owner and Delta will jointly execute a Memorandum of this Agreement for the purpose of placing third parties on notice of this Agreement.

Article XXIV: Miscellaneous Provisions:

1. **Amendment.** This Agreement may be amended only by a written instrument signed by the parties.
2. **Headings.** The headings used in this Agreement are for administrative purposes only and will not be used for purposes of construing this Agreement.
3. **Severance.** If any provision of this Agreement, or portion thereof, is found to be illegal or unenforceable, the other terms of this Agreement shall remain in effect and this Agreement shall be construed as if the illegal or unenforceable provision, or portion thereof, had not been included.
4. **Running With the Land/Binding Effect.** The benefits and burdens of any easement granted herein shall be appurtenant to and run with the land. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.
5. **Enforcement; Attorneys' Fees.** In the event that any party to this Agreement is required to commence any action or proceeding against the other party in order to enforce the provisions hereof, the prevailing party in any such action shall be awarded, in addition to any monetary damages or injunctive or other equitable relief otherwise awarded, all reasonable costs incurred in connection therewith, including attorneys' fees and all court costs.
6. **Law Applicable.** This Agreement shall be governed by and construed in accordance with Colorado law.
7. **Counterparts.** This Agreement may be executed in any number of counterparts with the same force and effect as if all parties hereto had signed the same

documents, but all of which shall together constitute one and the same instrument. Facsimile signatures shall be deemed originals for purposes of validity and enforcement of this Agreement.

8. **Taxes.** Delta shall be responsible for and shall pay all additional taxes which may be assessed against the Property by reason of any improvements placed thereon by Delta.

9. **Interpretation.** The parties have participated jointly in the negotiating and drafting of this Agreement. It is expressly agreed that this Agreement shall not be construed against either Party, and no consideration shall be given or presumption made, on the basis of who drafted this Agreement or any particular provision hereof or who supplied the form of Agreement. Each Party agrees that it has been purposefully drawn and correctly reflects its understanding of the transactions that it contemplates.

10. **Remedies.** The remedies and relief provided for in this Agreement shall be in addition to those provided at law or in equity for either party's breach hereof.

11. **Notices.** All notices shall be delivered to the Parties in writing to the address set forth below or at such address as subsequently notified by a Party to the other Party, and shall be deemed delivered when received via facsimile, mailed via U.S. Mail or registered mail, or delivered by private courier.

Delta Petroleum Corporation
370 17th Street, Suite 4300
Denver, Colorado 80202
Facsimile: 303-298-8251
Attention: Paul Joeckel

Jerry Gunderson
1021 Pritchard Mesa Court
Grand Junction, CO 81505
Facsimile: 720-360-0848

With copy to:

Rothgerber Johnson & Lyons LLP
1200 17th Street, Suite 3000
Denver, Colorado 80202
Facsimile: 303-623-9222
Attention: Robert D. Hoehn

The terms, conditions and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

OWNER:

Gunderson Ranch Partnership, DLP

By: _____

Jerry Gunderson, General Partner

Estate of Edwin Gunderson, Jr., Deceased

By: _____

Jerry Gunderson, Personal Representative

Estate of Norva A. Gunderson, Deceased

By: _____

Jerry Gunderson, Personal Representative

DELTA:

Delta Petroleum Corporation

By: _____

Name: Wayne Wise

Title: Piceance Asset Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me on this 15 day of July, 2010 by Jerry Gunderson as General Partner of Gunderson Ranch Partnership, LLP and as Personal Representative of the Estate of Edwin Gunderson, Jr., Deceased and as Personal Representative of the Estate of Norva A. Gunderson, Deceased, personally known to me who acknowledged before me that he executed the foregoing instrument for the uses and purposes set forth herein.

WITNESS my hand and seal.

My Commission Expires: _____

Notary Public _____



STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on this 15th day of July, 2010 by Wayne Wise, as Piceance Asset Manager of Delta Petroleum Corporation, personally known to me who acknowledged before me that he executed the foregoing instrument for the uses and purposes set forth herein.

WITNESS my hand and seal.

My Commission Expires: 2/5/2012

Notary Public _____



EXHIBIT A.1
LEGAL DESCRIPTION OF THE DELTA LANDS

Township 9 South, Range 93 West, 6th P.M.

Section 21: All of the SW/4, except that part lying east of the existing fence line as depicted on the attached survey.

Containing 70 acres more or less

A portion of Parcel # 2661-213-177

Township 9 South, Range 93 West, 6th P.M.

Section 29: E/2, E/2NW/4, NE/4SW/4

Section 32: N/2NE/4

Containing 520 acres more or less

A portion of parcel # 2661-073-00-014

Township 9 South, Range 93 West, 6th P.M.

Section 17: N/2NE/4SW/4, SE/4NE/4SW/4, E/2SE/4SW/4 except that portion lying south of County Road 330 No. 330E, N/2NW/4SW/4 SAVE AND EXCEPT that portion of a metes and bounds tract being more fully described in Warranty Deed dated March 19, 2002 and recorded in Book 3049 at Page 594 of Mesa County Deed Records.

Containing 63.60 acres more or less

A portion of parcel # 2661-173-00-247

Township 9 South, Range 93 West, 6th P.M.

Section 17: W/2NE/4, E/2NW/4, W/2SE/4

Containing 240 acres more or less

Parcel # 2661-171-00-029

EXHIBIT A.2
LEGAL DESCRIPTION OF THE GUNDERSON LANDS

Township 9 South, Range 93 West, 6th P.M.

Section 5: W/2W/2, except that part lying east of the survey line
Section 6: Lots 1 & 2, S/2NE/4, N2SE/4, SE/4SE
Section 7: E/2E/2, except that part lying east of the survey line
Section 18: NE/4NE/4 except that part lying east of the survey line
A portion of Parcel # 2661-061-235

Township 9 South, Range 93 West, 6th P.M.

Section 6: SW/4SE/4
Section 7: Lots 1-2-3-4, SE/4NW/4, E/2SW/4, W/2E/2
A portion of parcel # 2661-073-00-014

Township 9 South, Range 93 West, 6th P.M.

Section 7: NE/4NW/4
Parcel 2661-072-00-015

Township 9 South, Range 93 West, 6th P.M.

Section 18: Beginning NW corner of SE/4SW/4 then south 455 feet, east 180 feet ML & across Buzzard Creek NW to a point 140 feet east of beginning west 140 feet to point of beginning.
Parcel # 2661-183-00-038

Township 9 South, Range 93 West, 6th P.M.

Section 18: Lot 2 (ADA SW/4NW/4)
A portion of parcel # 2665-131-00014

Township 9 South, Range 93 West, 6th P.M.

Section 18: NW/4NE/4, E/2NW/4, NE/4SW/4
Parcel # 2661-182-00-030

Township 9 South, Range 93 West, 6th P.M.

Section 20: E/2, NE/4NW/4
Section 21: W/2NNW/4
Parcel # 2661-201-00-040

EXHIBIT A.3 DESCRIPTION OF WELLPAD CONSTRUCTION



Piceance Basin Pad Design DHS Rig 5 Pad Layout Design Using Snubbing Unit as Completion Vehicle

Client: Delta Peti
Well: Piceance
Date: 10/20/200

