

SURFACE USE AGREEMENT AND GRANT OF EASEMENTS

THIS SURFACE USE AGREEMENT AND GRANT OF EASEMENTS ("Agreement") is effective the 28th day of November, 2007, between KENT S. JOLLEY, whose address is 832 Canyon Creek Drive, Glenwood Springs, Colorado 81601, BRETT L. JOLLEY, whose address is 1288 County Road 245, New Castle, Colorado 81647, RICHARD AND MARY JOLLEY FAMILY LLLP ("Owner"), and ORION ENERGY PARTNERS L.P., whose address is 1675 Broadway, Suite 2000, Denver, Colorado 80202 ("Operator").

RECITALS

A. Owner owns the surface of the real property in Garfield County, Colorado (the "Property"), legally described as:

Township 6 South, Range 91 West, 6th P.M.

Section 7: E/2SE

Section 8: E/2E/2, W/2SW, SESW, SWSE

Section 9: W/2W/2

Section 16: W/2, the south 330 feet of SWSE

Section 17: N/2, SE, N/2SW, SESW

Section 18: NE

Section 20: E/2E2, NWNE, NENW

Section 21: NWNE, NENW

B. Operator is the owner/operator of a working interest in an Oil and Gas Lease dated January 17, 1990, recorded in Book 775 at Page 629, of the Garfield County records granted by Richard C. Jolley, Mary Louise Jolley, Brett L. Jolley, Kent S. Jolley and Anne E. Jolley, and U.S.A. Oil and Gas Lease COC 51146 dated April 1, 1990, and recorded in Book 776, Page 908 of the Garfield County records (together the "Leases").

C. Operator wishes to drill additional oil and gas wells on the Property and directionally to adjacent lands for the extraction of hydrocarbons.

D. Owner entered into a Surface Use, Access and Right-of-Way Agreement dated September 28, 1999, and a Letter Agreement dated May 6, 2003 and recorded at Book 1531, page 424 of the Garfield Clerk and Recorder's Office ("Prior Mesa Agreements"). Owner and Operator desire to terminate the Prior Mesa Agreements.

TERMS

THEREFORE, in consideration of the mutual covenants in this Agreement, and Operator's agreement to pay the damages described in this Agreement, the parties agree as follows:

1. Wells and Well Pads.

1.1. Operator may construct well site pads for drilling, completion, re-completion, reworking, re-entry, production, maintenance and operation of Wells ("Well Pads") on the Property, excluding the E/2E2, NWNE, NENW of Section 20 and the NENW of Section 21, Township 6 South, Range 91 West, consistent with this Agreement. Operator, its agents, employees, assigns, contractors and subcontractors, may enter upon and use the Well Pads for the purposes of drilling, completing, producing, maintaining and operating Wells to produce oil, gas and associated hydrocarbons produced from the Property and the lands described in Section 1.1.2 below, including the construction and use of frac pits, tank batteries, water disposal pits, production equipment and other wellsite facilities used to produce and market the oil, gas and associated hydrocarbons.

1.1.1. No Well Pad shall exceed five (5) acres of disturbed area, including any cuts and fills during drilling. After completion operations for the wells on the pad are finished, the size of the Well Pads shall be reduced to a maximum of one and one-half (1 1/2) acres.

1.1.2. As allowed by this Agreement, Operator may drill the maximum number of Wells on the Well Pad(s) permitted by Colorado Oil and Gas Conservation Commission ("COGCC") spacing and density requirements. Operator may drill directionally from Well Pads located on the Property to bottom hole locations underlying other lands as follows:

(a) Operator may drill directionally from Well Pads located in the NWNE of Section 21, the NESW of 16 and from the existing pad in the SESW of Section 16, Township 6 South, Range 91 West, to bottom hole locations in the E/2 of Section 16, and the NWNW of Section 22, Township 6 South, Range 91 West; and

(b) Operator may drill directionally from Well Pads located in the NWSW of 17 and the existing pad in the SESW of Section 17, Township 6 South, Range 91 West, to bottom hole locations in the SWSW of Section 17 and the E/2 of Section 18, Township 6 South, Range 91 West.

(c) Operator may drill directionally from existing Well Pads located in the SESW of Section 8, Township 6 South, Range 91 West, to bottom hole locations in the NESW and the NWSE of Section 8, Township 6 South, Range 91 West.

1.1.3. As used in this Agreement, "Well" shall mean a well and the accompanying wellbore (either vertically or directionally drilled from the

Well Pad) for the production of oil and gas, and all associated casing and wellhead equipment.

- 1.1.4. No new well pads shall be constructed in E2SE of Section 7, W2SW, SESW, SWSE, E2SE of Section 8, and the NW of Section 17, and the NE of Section 18, Township 6 South, Range 91 West. Existing surface locations for Jolley #1-8 in SESW of Section 8 and the existing surface location for Jolley #17-6 in SENW of Section 17 may be utilized for additional wells, and Operator will have the right to increase the size of the above described locations to a maximum of 5 acres to allow for the drilling and completion of additional wells.

1.2. Prior to the commencement of drilling of any well, Operator shall pay Owner [REDACTED] per new well that is drilled from the Property and bottomholes in the following locations on the Property: Section 7: E2SE; Section 8: S/2, E/2NE; Section 9: W2W2; Section 16: N2NW, SWNW, N2SW, SESW; Section 17: S/2. Except as set forth in the preceding sentence, Operator shall pay Owner [REDACTED] per new well that Operator drills from the Property. Except as otherwise provided in this Agreement, such payments shall constitute payment in full by Operator for all damages to the Property associated with the drilling, construction, completion, re-completion, reworking, reentry, production, operation and maintenance of the Well(s).

1.3. The slope of a Well Pad to any ditch, road, or other improvement shall be no greater than 2:1.

1.4. All above-ground permanent structures on the Well Pad(s) and above-ground pipeline structures shall be painted with appropriate earth-tone colors to blend with the surrounding landscape, and shall be screened with containerized planting as described by the NRCS (National Resource Conservation Services) techniques guide. Operator shall use diligent efforts to minimize disturbances to existing trees and vegetation near the Well Pad.

1.5. Noise levels shall not exceed COGCC regulations.

1.6. All drilling fluids and mud shall be handled in accordance with COGCC regulations. No fluids, mud, soil, or other substances created or derived from operations conducted off of the Property shall be deposited on the Property. Nothing in this section shall limit Operator's right to bring onto the property, use, and reuse clean frac water.

1.7. At all times during drilling operations and thereafter, the Well Pad shall be fenced with five-strand barb wire fencing affixed to sturdy wooden posts spaced six (6) feet apart at a height not less than forty-eight (48) inches.

1.8. Any irrigation or tail water ditch or pipe located within the Well Pad shall be left intact or rerouted to a location approved by Owner so that the delivery of water on the Property is not disrupted. Operator shall be responsible for any repair and/or maintenance of any irrigation ditch or pipe located within the Well Pad.

1.9. No debris, slash, or other materials shall be burned on the Property (except for the flaring of gas), nor shall such materials be buried on the Property, without the express written consent of Owner, which consent may be conditioned or denied in Owner's sole discretion.

1.10. Reserve or drilling pits used on the Property, if any, shall be plastic lined during drilling and completion operations. All plastic lining shall be removed during initial reclamation and not buried in place. Excavated material shall be replaced within thirty (30) days of finalization of completion operations at the associated Well Pad.

1.11. No open pit mining shall be permitted on the Property. The Well Pad shall be safe and in good order, and shall at all times be kept free from litter and debris. Operator shall utilize electronic field monitor devices or another type of monitoring system standard in the industry on all Wells.

1.12. No compressor units or stations, processing plants, evaporation pits shall be located on the Property, except as shown in the SESE of Section 20 on the attached Exhibit A. For each compressor unit, Operator will use sound mitigation measures that are reasonable and customary and that result in sound levels that comply with governmental laws and regulations. In the event Operator deems that a compressor station is necessary, Operator shall pay Owner \$50,000 prior to commencement of construction.

2. Road, Pipelines, and Related Issues.

2.1. Road. Owner grants to Operator a non-exclusive access easement ("Road Easement") on the Property for ingress and egress by Operator and its employees, contractors, sub-contractors, agents, and business invitees as needed to conduct oil and gas operations as described in this Agreement. The Road Easement shall be approximately twenty (20) feet in width, being ten (10) feet on each side of the centerline.

2.1.1. The road shall be constructed in accordance with the standards of BLM Resource Roads, as described in "Surface Operating Standards for Oil and Gas Exploration and Development," 3rd Edition, prepared by BLM/FS Rocky Mountain Regional Coordinating Committee.

2.1.2. Road construction that requires cuts and fills shall be minimized to the maximum extent possible.

2.1.3. Culverts shall be installed at ditch and drainage crossings when requested by Owner where road cross such ditches or drainages, and shall be sized to prevent obstruction to the free flow of the volumes of water being carried, inclusive of flood stages. Operator shall protect all water sources and conveyance structures, including but not limited to the natural flow of creeks, wells, and ditches, from all operational activities and shall immediately remedy any diversion, curtailment, or blockage of water flows or contamination of water sources.

2.1.4. The road shall at all times be properly graded, drained, graveled, and maintained by Operator from commencement of operations through final reclamation of the Well Pad(s) or termination of this Agreement. Further, Operator shall keep the Road Easement in good order, at all times free from litter and debris.

2.1.5. Permanent gates shall be installed at each point where the road intersects perimeter or cross fences. If Owner or Operator chooses to lock any gate on the road, keys shall be provided to the other party.

2.1.6. Operator shall abide by a 15 m.p.h. speed limit at all times on all roads.

2.1.7. Operator shall use the best available methods, other than hard surfacing, to limit dust. Magnesium chloride shall be applied when requested by Owner, up to a maximum of four (4) times per year.

2.1.8. Owner shall have the right to relocate any road, provided that such relocation does not impose an undue burden on Operator. Any relocated road shall be of similar utility, and all costs associated with such relocation, other than routine maintenance, shall be at Owner's expense.

2.1.9. The Road Easement conveyed by this Agreement shall not include a right of use by the public, and no right of access by the Operator or the public to other lands. Notwithstanding the foregoing, Operator may use the existing road located in the SWNE of Section 18 on the Property to access Operator's operations on the following public lands: NW and the S2 of Section 18, and SWSW of Section 17, Township 6 South, Range 91 West. Owner reserves the right to use all such roads for any purpose that does not unreasonably interfere with Operator's operations.

2.1.10. Consideration. As consideration for the grant of the Road Easement, prior to commencing any use or construction, Operator shall pay Owner a one-time payment of \$1.00 per linear foot of Road Easement.

2.2. Pipeline Easement. Owner grants to Operator, its agents, employees, contractors, and subcontractors, a non-exclusive pipeline easement ("Pipeline Easement"), approximately fifteen (15) feet in width across the Property to the Well Pad(s), to construct, maintain, inspect, and operate, a pipeline or pipelines, and pigging facilities solely for: 1) transporting oil, gas, petroleum products, water, and any other substances recovered during oil and gas production under this Agreement, whether fluid or solid, any products and derivatives of any of those substances, and any combinations and mixtures of any of those substances, and 2) movement of water used in the fracturing processing. Owner also grants to Operator a license for the use of 15 feet parallel to and adjoining one side of the Pipeline Easement as appropriate for temporary use during the initial installation of the pipelines.

2.2.1. Nothing in this subsection 2.2 shall be construed as granting Operator the right to place any facilities on the Property other than the pipeline, related pipeline

equipment to be placed in the Pipeline Easement and compression facilities permitted under the terms of this Agreement.

- 2.2.3. Consideration. As consideration for the grant of the Pipeline Easement, prior to commencing any use or construction on the Pipeline Easement, Operator shall pay Owner a one-time payment of \$[REDACTED] per linear foot but only as to that portion of the Pipeline Easement that is not located within the Road Easement. Consideration has been paid pursuant to Section 2.1 of this Agreement for that portion of the Pipeline Easement that is located within the Road Easement.

2.3. Third Party Gas Pipeline Easement. Owner grants and conveys to Operator a non-exclusive pipeline easement ("Third Party Gas Pipeline Easement"), twenty five (25) feet in width at a location set forth on Exhibit A, attached hereto, to construct, operate, maintain, inspect, and repair two pipelines and associated above and below ground valves, cathodic protection equipment, and pipeline markers. The first pipeline shall be for the purpose of transporting oil, gas, petroleum products, produced from the Property and from lands other than the Property and such lands are described on Exhibit B attached hereto ("Potential Operator Property"). The second pipeline shall be for the purpose of transporting water to and from the Potential Operator Property. Both pipelines shall be placed in the same trench. Owner also grants to Operator a license for the use of 25 feet parallel to and adjoining one side of the Third Party Gas Pipeline Easement as appropriate for temporary use during the initial installation of the pipelines.

2.3.1. Consideration. Upon execution of this Agreement, Operator shall pay Owner \$[REDACTED] as consideration for the Third Party Gas Pipeline Easement. In addition, Operator shall pay Owner \$[REDACTED] for each mcf of gas that is removed from Potential Operator Property and that is paid a royalty under any oil and gas lease covering the oil, gas and associated hydrocarbons owned by Gene R. Hilton and Mary J. Hilton or their successors and assigns ("Hilton Minerals"). The parties' intent is that the total net volume used in the consideration calculation under this Section should equal the total net volume used in calculating the royalty payments to the Hilton Minerals. Such payments are to be made monthly by Operator and supported by a metered statement, which shall be provided to Owner with each payment. Except as otherwise provided in this Agreement, such payments shall constitute payment in full by Operator for all reasonable damages to the Property associated with the construction, operation, maintenance, inspection, and repair of the pipeline within the Third Party Gas Pipeline Easement. In addition to the other legal rights set forth in this Agreement, Owner shall have the right once each year to audit the relevant books and records of Operator to confirm the accuracy of the payments made by Operator as far back as the last audit conducted by Owner or three years, whichever is shorter.

2.4. Easement Construction.

2.4.1 Operator shall provide written notice to Owner at least two (2) weeks prior to any construction or installation under this Section 2, with the exception of

initial construction which may proceed immediately upon execution of this Agreement.

2.4.2 Operator shall bury all gas pipelines placed within any pipeline easement at a depth not less than forty-two (42) inches, and shall install all such pipelines so that they can be detected using a commonly available metal detector.

2.4.3 Operator shall immediately repair any roadway crossings and fences on or enclosing the Property that is damaged or temporarily taken down during any construction on or use of any pipeline easement.

2.4.4 Any rocks excavated by Operator that are too large (12" or greater) to be incorporated into fill shall be removed.

2.4.5 Operator shall provide Owner with "as-built" survey of all pipelines after construction. It shall be the Operator's responsibility to record necessary documents in Garfield County, and to provide the Owner with a copy of any recorded documents.

2.4.6 Operator shall not use the Third Party Gas Pipeline Easement or any other pipeline easement as a vehicle access point to lands adjacent to the Property. No gates shall be installed on any fences on or near the boundary lines of the Property, and if no fence currently exists, Operator shall install a fence across the width of the easement on the boundary line to insure that the Third Party Gas Pipeline Easement is not used by Operator's agents as a vehicle access point to lands adjacent to the Property.

2.4.7 During installation of the any road or pipeline on the Property, and at all times thereafter, Operator shall minimize disruption of, and interference with, any ranching, agriculture, or other operations conducted on the Property now or in the future. No camping, recreating, hunting, or any other non-pipeline related activities are permissible at any time on the pipeline or road easements or the Property by Operator.

2.4.8 Within 120 days after installation of any pipeline, or any maintenance or repair of any pipeline that disturbs the surface of the Property, Operator shall restore any affected area to its approximate pre-disturbance topography and re-seed all such areas with appropriate native grasses or alfalfa for ground cover and erosion control as requested by Owner. Operator shall insure a naturally contoured surface over the pipeline easements.

2.5 Term of Grant. The pipeline and road easements granted herein shall continue until: (i) the termination of this Agreement in accordance with Section 8, or (ii) Operator's written surrender of the easement.

2.6. Evolution of Use. Operator's use of the easements shall be limited according to the terms of this Agreement, and the doctrine of "normal evolution of use" shall not apply to Operator's use of the easements.

3. Weed Control. Operator shall be responsible for controlling all noxious weeds on all areas of its operations.

3.1. Notification. If Operator locates, or Owner notifies Operator in writing of the location of, noxious weeds on any areas subject to this Section 3, Operator shall implement control procedures before the noxious weeds go to seed.

4. Erosion Control. Operator shall be responsible for controlling all erosion of soils at any Well Pad and easement, and on areas adjacent to the Property that is caused by the activities of Operator or its employees, contractors, sub-contractors, or agents. Such erosion control shall include, without limitation, recontouring, reseeding and re-vegetating such lands and restoring any reservoirs or waterways to their previous quality and capacity. Operator's responsibility for erosion control pursuant to this Section 4 shall be ongoing and shall continue even after termination of Operator's use of a Well Pad or easement, until (i) such time as Owner provides Operator with a written release of Operator's further obligation to control erosion on the Property, or (ii) one year has passed since the last Well was plugged and abandoned or the termination of the easement, as the case may be.

5. Reclamation.

5.1. Initial Reclamation. Within two (2) years after initial disturbance to a Well Pad, except for areas required for current operations such as roads, the wellhead(s), permanent facilities, clean water frac pits, and room for future workover operations, Operator shall restore all disturbed areas in accordance with this subsection 5.1. Such restoration shall commence immediately following completion of the Wells and establishment of equipment on a Well Pad, the completion of a road, and/or the completion of a pipeline, as the case may be.

5.1.1. Operator shall submit copies of a site-specific reclamation plan along with copies of each approved Application for Permit-to-Drill (Form 2), including any conditions of approval for all Wells on the Property, prior to commencement of construction operations with heavy equipment. All interim and final reclamation goals shall be included in the site-specific reclamation plan.

5.1.2. Operator shall provide Owner with: (i) cut and fill diagrams for construction of the Well Pads, including cross sections and plan views with topographic contours; and (ii) a site map showing the location of wellbores, drilling and completion pits, access roads, soil stockpiles, and the layout of drilling and completion equipment.

5.1.3. Operator shall remove all construction materials, in-fill pits and holes no longer necessary of the operation of the Well(s), and remove compaction from the soil in areas no longer necessary of the operation of the Well(s). The operational Well Pad shall be returned to the approximate original topography and seeded with appropriate native

vegetation for ground cover and erosion control. Subsidence in any reclaimed area shall be corrected by adding additional topsoil. Crop lands shall be returned to grass or alfalfa, as requested by Owner, and sagebrush areas shall be planted with native grasses and vegetation that existed prior to disturbance.

5.1.4. A minimum of twelve (12) inches of favorable growth medium shall be reapplied during interim and final reclamation. If this quantity of material is not available, existing soils shall be treated with amendments and fertilizer to create a favorable growth medium.

5.1.5. The Well Pad(s) and easements shall be mulched immediately after seeding with weed-free straw or other type of weed-free mulch. Operator shall be responsible for protecting re-plantings, including fencing to exclude animals.

5.1.6. Additional disturbance of native or previously reclaimed areas shall be minimized. If any subsequent disturbances of surface areas are undertaken at any time, the same reclamation and re-vegetation obligations shall apply. Recontouring shall not be required in areas that have been successfully reclaimed.

5.2. Final Reclamation: Final reclamation shall return the entire site to its original topography and vegetation, and shall be complete and successful within three (3) years after the last Well is plugged and abandoned. However, if at the end of the three (3) year period Operator has not completed a successful reclamation because of events beyond its control, Owner agrees to grant Operator in writing a reasonable extension of time to achieve a successful reclamation. Upon final termination of operations, Owner may request culverts and fencing to be left in place, in which case they shall thereafter belong to Owner.

6. Water. This Agreement does not give Operator any right to use any water or water rights of Owner, except as otherwise expressly agreed in writing by Owner. Operator shall take all necessary steps to prevent its operations from polluting any water well, water spring or other water source located on the Property.

1. Hunting. Operator shall have the option of conducting surface operations relating to well pad and pipeline construction, and drilling and completion operations ("Major Operations") during the major fall rifle hunting seasons, as such seasons are established by the Colorado Division of Wildlife ("Limited Access Period"). Except with prior agreement of Operator and Owner, in no event will the Limited Access Period apply to months other than October and November of any year.

7.1 To exercise the option to conduct Major Operations during the Limited Access Period for the first year of the Agreement, Operator must notify Owner of its election on or before March 1 and pay [REDACTED] on or before April 1, 2008. Each year thereafter, Operator may exercise the option to conduct Major Operations during the Limited Access Period by paying the Owner [REDACTED] on or before January 15th. This amount shall be offset by any amounts received by Owner from other oil and gas operators on the Property for those operators' access to the Property during the Limited Access Period.

7.2 Operator shall be able to service, maintain, and monitor the production of any existing and/or completed well on the Owners' Property regardless of whether the option to conduct Major Operations during the Limited Access Period was exercised.

7.3 Owners agree to indemnify Operator against and hold Operator harmless from any and all loss, damage, claims or liabilities arising solely from Owners' hunting operations that affect any of Operator's operations caused by the Owners' negligent or willful acts.

8. Termination. This Agreement shall terminate upon the later of: (i) the expiration or termination of the Lease and easements granted; or (ii) upon completion of final reclamation. No termination of this Agreement by Owner, Operator or otherwise shall relieve Operator of any obligation under this Agreement incurred or occurring prior to and through the date of termination, including Operator's liability for or obligation to perform any maintenance, reclamation, mitigation, corrective action, or expenditures required pursuant to common law or any federal, state or local statute, regulation, rule or ordinance. Upon termination of the rights granted under this Agreement, Operator shall execute and deliver to Owner, within thirty (30) days of written demand therefor, an acknowledgment that this Agreement has been terminated. If Operator fails or refuses to deliver that acknowledgment, a written notice by Owner reciting any such failure or refusal and that this Agreement is terminated shall, sixty (60) days after the date of recording of that notice, be conclusive evidence against Operator and all persons claiming under Operator of the termination of this Agreement.

9. General Provisions.

9.1. Consultation. Operator shall consult with Owner regarding all significant operations involving Operator's use of the Property. Operator shall notify Owner at least ten (10) days prior to beginning any work on the Property involving heavy equipment, including but not limited to drilling, excavating, cutting roads or laying pipes.

9.2. Surveys, Plans and As-Built. Prior to construction, Operator shall provide Owner with COGCC well permits and applications, as well as surveys and plans of the Well Pad site, easements, roads, pipelines and equipment location.

9.3. Liability of Operator. Except for the damages covered by this Agreement, Operator shall be liable for any injury to persons, property, or livestock caused by or incident to the operations of Operator, its agents, employees, contractors, or subcontractors ("Operator Group") on the Property, or any extraordinary damages due to spills of materials, explosions, or any other harmful activity of Operator. Operator shall indemnify and hold harmless Owner from and against any and all past, present and future liability, damages, costs, expenses, fines, penalties and fees (including without limitation reasonable attorney and consultant fees) incurred by or asserted against Owner arising from or regarding or relating to the Operator Group's use of the Wells, Well Pad(s) or easements or any other rights granted by this Agreement. Such indemnification shall extend to and encompass, but shall not be limited to, all claims, demands, actions or other matters which arise under the common law or other laws designed to protect the environment and public health or welfare including, without limitation, the following laws (as

amended) and any regulation promulgated under their authority: Endangered Species Act of 1973 (16 U.S.C. § 1531, *et seq.*); Clean Water Act (33 U.S.C. § 1251, *et seq.*); Clean Air Act (42 U.S.C. § 741, *et seq.*); National Environmental Policy Act (42 U.S.C. § 4321, *et seq.*); Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, *et seq.*); Solid Waste Disposal Act (42 U.S.C. § 6901, *et seq.*); Toxic Substance Control Act (16 U.S.C. § 2601, *et seq.*); Safe Drinking Water Act (42 U.S.C. § 300f, *et seq.*); Occupational Safety and Health Act (29 U.S.C. § 651, *et seq.*); and any applicable state or local statutes, regulations or ordinances. Operator shall, at Owner's option, defend Owner or reimburse Owner as expenses are incurred for Owner's defense against any claims, demands, actions or other matters, whether brought or asserted by federal, state or local governmental bodies or officials, or by private persons, which are asserted pursuant to or brought under any such laws. All of Operator's obligations stated in this subsection 9.3 shall survive termination of this Agreement.

9.4. Regulations: No part of this Agreement shall be construed to relieve Operator from any or all COGCC regulations, present and future.

9.5. No Off-Site Substances. Operator shall not store or dispose of on the Property any soil, waste, or other substance generated off of the Property, except clean water to be used for fracturing purposes.

9.6. Prohibited Items and Activities. Operator shall not be permitted to have, or allow, firearms, crossbows, pets, alcohol, or illegal drugs on the Property. Personal and/or leisure activities are prohibited. No employees, contractors, subcontractors, agents, guests or invitees of Operator shall reside on the Property overnight, with the exception of personnel deemed critical to well operations by the Operator.

9.7. Insurance. Operator shall keep its operations insured, or comply with applicable self-insurance laws and regulations, for automobile, liability, and workmen's compensation insurance, and for any damages incurred on the Property.

9.8. Operator Liens. Operator shall, at its sole expense, keep the Property free and clear of all liens and encumbrances resulting from Operator's and its agents' activities on the Property, and shall indemnify and hold harmless Owner from and against any and all liens, claims, demands, costs, and expenses, including, without limitation, attorney fees and court costs, in connection with or arising out of any work done, labor performed, or materials furnished.

9.9. No Warranty of Title. This Agreement is made subject to any and all existing easements, rights-of-way, liens, agreements, burdens, encumbrances, restrictions, and defects in title affecting the Property. Owner does not in any way warrant or guarantee title to the Property.

9.10. Subrogation of Rights. Operator shall have the right to discharge or redeem for Owner, in whole or in part, any mortgage, tax, or other lien on the Property that could jeopardize Operator's rights under this Agreement, in which case Operator shall be subrogated to such

rights of the party to whom payment is made for purposes of securing and collecting the amounts paid on behalf of the Owner.

9.11. Non-Exclusive Use and Reservations. All rights granted in this Agreement are limited to the specific grant(s) described in this Agreement. Except as may be specifically provided elsewhere in this Agreement, this Agreement does not, in any way, convey any water rights or the right to use water, nor does it convey any rights to construct a compressor or related facility except as set for on Exhibit A, or to mine, drill, remove, process, treat or produce, in any way, oil shale or other minerals not specifically provided for in this Agreement that are located or may be located in, on or beneath the Property. Owner reserves to itself and its successors and assigns all rights not specifically granted to Operator in this Agreement.

9.12. Waiver. The failure of either party to enforce any of its rights under this Agreement upon any occasion shall not be deemed a waiver of such rights on any subsequent occasion(s). The waiver, either express or implied, by any party of any of the rights, terms or conditions in this Agreement shall not be deemed as or constitute a waiver of any other rights, terms or conditions in this Agreement. Any waiver, in order to be valid and effective, must be in writing.

9.13. Notice. Wherever provision is made in this Agreement for the giving, service, or delivery of any notice, statement, or other instrument, such notice shall be given by: (i) personal delivery, or (ii) United States first class mail, postage prepaid, addressed to the party entitled to receive the same at the address stated in the introductory paragraph; provided, however, that each party may change that party's mailing address by giving to the other party written notice of change of such address in the manner provided in this subsection. Mail shall be deemed to have been given, served and delivered upon the third delivery day following the date of the mailing; personal delivery shall be deemed to have been given, served and delivered upon receipt.

9.14. COGCC Notices.

9.14.1. Owner shall be provided with a copy of any "Change of Operator" notice filed with the COGCC pursuant to Rule 312.

9.14.2. A copy of any notice filed with the COGCC regarding public health, safety, or emergency matters shall be delivered to Owner simultaneously with the COGCC notice. In the event of a spill of E&P waste or any substance, Operator shall immediately notify Owner, verbally or by telephone if possible, and identify the quantity, location, and type of substance released. In the event of a surface or subsurface loss of well control, Operator shall notify Owner, verbally or by telephone if possible, as soon as possible. Any verbal or telephonic notification under this subsection shall be documented in writing and provided to Owner in accordance with subsection 9.14.

9.14.3. Copies of all forms, notices, plans, tests, or other documentation regarding spills or blow-outs shall be provided to Owner at the same time as filing with the COGCC, local government representative, or any other regulatory agency.

9.14.4. A copy of any Operator requests for variance from surface use or reclamation regulations, not requiring a petition and notice to Owner, shall be delivered to Owner at the same time as delivery to the COGCC.

9.15. Authority. Operator represents and warrants that it has full authority to commit to this Agreement. Operator shall provide Owner with a copy of all leases, including pooling or communitization agreements, and spacing orders, under which it is operating on the Property.

9.16. Survival of Obligations. All obligations, indemnifications, duties, and liabilities undertaken by Operator under this Agreement shall survive the termination of this Agreement.

9.17. Merger of Prior Agreements. This Agreement and the Lease contain the sole and entire agreement and understanding of the parties with respect to the entire subject matter on the Property. All prior discussions, negotiations, commitments, agreements, and understandings relating to the subjects of this Agreement on the Property, and the Lease are merged into them. In the event of any conflict between the terms of this Agreement and the Lease, the terms of this Agreement shall control.

9.18. Amendments. This Agreement may only be amended by the written agreement of both parties. This Agreement cannot be amended or terminated orally.

9.19. Assignment. This Agreement is assignable by the parties.

9.20. Headings. Section headings or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision.

9.21. Construction. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa; and the masculine gender shall include the feminine and neuter genders, and vice versa. The provisions of this Agreement have been independently, separately and freely negotiated by the parties as if drafted by both of them. The parties waive any statutory or common law presumption that would serve to have this Agreement construed in favor of or against either party.

9.22. Severability. If any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws applicable to this Agreement, the parties intend that the remainder of this Agreement shall remain in full force and effect so as to fulfill as fully as possible the intent of the parties as expressed by the then existing terms of the Agreement, including the invalidated provision.

9.23. Applicable Law and Attorney Fees. This Agreement and the rights of the parties under it shall be governed by and interpreted in accordance with the laws of the State of Colorado, by the District Court of Garfield County, Colorado. In the event of a dispute involving or related to any term or condition of this Agreement, the non-breaching party shall be entitled to recover its reasonable costs and attorney fees, including post-judgment collection costs, in addition to actual damages.

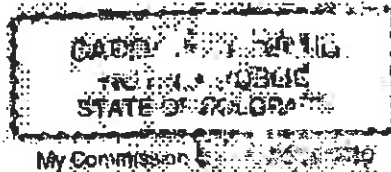
STATE OF COLORADO)
) ss
COUNTY OF _____)

The foregoing instrument was subscribed and sworn to before me on
Feb 20, 2008, by Todd Kalstrom of _____

My commission expires: 1-31-2009

Witness my hand and seal.

OPERATOR:



ORION ENERGY PARTNERS, L.P.

By: Todd Kalstrom
Todd Kalstrom,
Land Manager, Northern Region

STATE OF COLORADO)
) ss
COUNTY OF DENVER)

The foregoing instrument was subscribed and sworn to before me on
FEBRUARY 20, 2008, by TODD KALSTROM, LAND MANAGER of
ORION ENERGY PARTNERS L.P.

My commission expires: 1-31-2009

Witness my hand and seal.



Sarah J. McCabe
Notary Public

EXHIBIT "A"

Attached to and made a part of that Surface Use Agreement and Grant of Easements dated February 20, 2008 by and between Richard & Mary Jolley Family, L.L.P., Kent S. Jolley, Brett L. Jolley and Orion Energy Partners L.P.

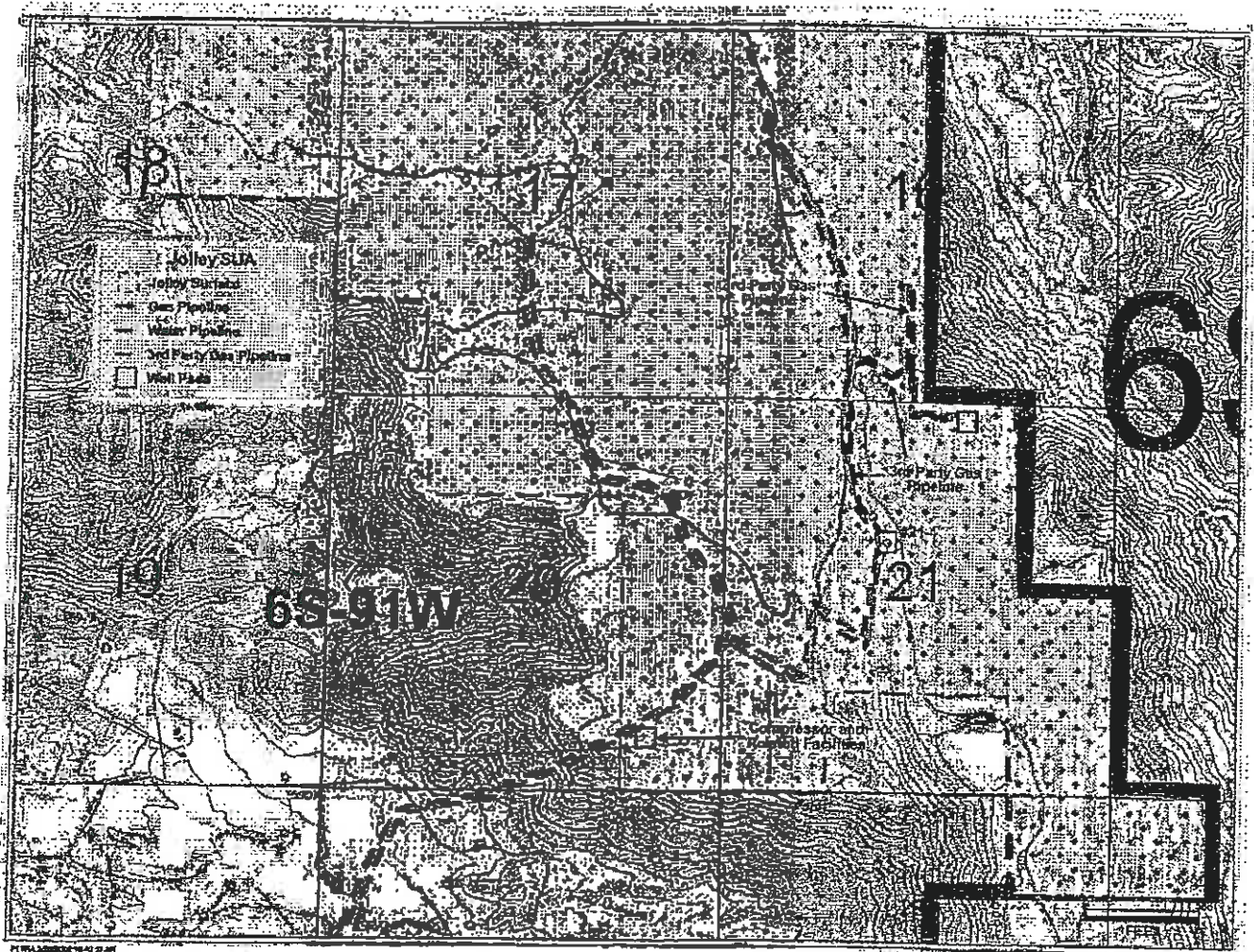


EXHIBIT "B"

Attached to and made a part of that Surface Use Agreement and Grant of Easements dated February 20, 2008 by and between Richard & Mary Jolley Family, LLLP, Kent S. Jolley, Brett L. Jolley and Orion Energy Partners L.P.

Potential Operator Property

Township 6 South, Range 91 West, 6th P.M.

Section 2:
Section 3:
Section 4:
Section 8:
Section 10:
Section 11:
Section 12:
Section 13:
Section 14:
Section 15:
Section 16:
Section 21:
Section 22:
Section 23:
Section 24:
Section 25:
Section 26:
Section 27:
Section 34:
Section 35:
Section 36:

Township 6 South, Range 90 West, 6th P.M.

Section 17:
Section 18:
Section 19:
Section 20:
Section 29:
Section 30:
Section 31:
Section 32:

Township 7 South, Range 91 West, 6th P.M.

Section 1:
Section 2:
Section 11:
Section 12: