

Well Name: Triton #2

## SURFACE USE AND ROAD ACCESS AGREEMENT

This agreement, made and entered this 19th day of March, 2013, by and between Big Thompson Investment Holdings, LLC, whose address is 1205 West Elizabeth Street, PMB 134, Fort Collins, CO 80521, hereinafter referred to as “Owner”, and Triton Energy Services, LLC., whose address is 1205 West Elizabeth Street, PMB 134, Fort Collins, CO 80521, hereinafter referred to as “Operator”, collectively referred to herein as the “Parties”.

### WITNESSETH:

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, the Parties agree as follows:

1. Owner is the surface owner of the following described lands and Operator intends to drill, or cause to be drilled, a Class II UIC Injection Well (“Well”) for produced water disposal, at the legal location on the following described lands (“Lands”) located in Weld County, Colorado:

#### **Triton #2 Well**

SWSE Sec. 35 T6N R65W, 6<sup>th</sup> P.M.

Located approximately 4133 FNL and 3252 FWL

2. In order for the Operator to drill, construct, complete, maintain and operate the Well and all facilities associated therewith, including, permanent access road (“Access Road”), temporary access road (“Temporary Access Road”), pipelines, electric lines, test wells, monitoring wells, and any other facilities necessary for Operator to conduct operations on the Well (collectively referred to herein as “Facilities”), it is necessary that Operator enter and utilize a portion of the surface of the Lands.
3. The Parties enter into this agreement to evidence their entire agreement regarding the payment of surface damages, entry, surface use, and any other matters relating to Operator’s use of the Lands.
4. The approximate location of Well, Access Road, Temporary Access Road, Well site and the location of any existing pipelines and other Facilities to be constructed on the Lands are depicted on Exhibit “A”. All electric lines and pipelines are to be located in the Access Road right-of-way. Changes to the Well, Access Road and Facilities locations, and the drilling of test wells and monitoring wells, may be done by Operator only with the written consent of Owner. Said changes or additional facilities shall not unduly interfere with Owner’s use or enjoyment of the surface estate.

5. Operator’s operations on the Lands will be conducted pursuant to the terms this agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission (“COGCC”) and applicable local government, state and federal statutes and case law.

6. The Operator is solely responsible for any and all damages, entry and surface use thereof. Operator shall be completely liable and fully responsible, for all surface and subsurface damages associated with the use of said Lands in connection to said Well and Facilities.

7. This agreement shall only cover the above-described Well, related Facilities, and operations, and does not imply consent from Owner for the further construction, surface use or damages for additional disposal wells.

8. Access roads shall be reasonably maintained, and only one access road per well shall be used. Operator agrees to consult with Owner as to route of ingress and egress in an attempt to minimize damages to the above-described lands. Owner agrees not to unnecessarily withhold his consent as to route of ingress and egress, but does maintain final approval of all access locations and internal roads

9. Operator agrees to complete reclamation of the surface of the subject lands and access roads and drill sites as nearly as practicable to the condition in which the same was found prior to the commencement of Operator’s operations, including removal of all Operator’s equipment and material.

10. Subject to the rights of Operator under this agreement, Owner hereby reserves the right to use the Lands for any purpose (including agriculture, ranching, and grazing), and to lease the Lands and grant easements and licenses on, over and across the Lands to other persons for such purposes (and any income derived by Owner there from shall belong entirely to Owner).

11. In the event of alleged default by Operator in the payment of any sums hereinabove provided to be made, in obligations to be performed, or any other terms, conditions or covenants of this agreement, Owner will notify Operator, by certified mail, return receipt requested, of the alleged default. Operator will have 30 days from receipt of the written notification in which to dispute or otherwise respond to the notification before Owner may allege default. Receipt of the certified mail shall be deemed effective 3 days after the mailing unless sooner received by Operator.

12. The parties agree that the prevailing party in any action resulting from a breach of this agreement will be entitled to its reasonable attorneys’ fees and costs incurred therein.

13. Additional Provisions:

- a. Indemnity. Operator agrees to indemnify, defend and hold harmless Owner and its agents, tenants, beneficiaries and employees, in their individual and corporate capacity and all of its officers, directors, employees, shareholders and agents from and against any claims, demands, causes of action, actions, losses,



liabilities, expenses, damages or fines (including without limitation reasonable attorneys' fees and expenses, and costs and expenses reasonably incurred in investigating, preparing or defending against any litigation or claim, action, suit, proceeding or demand of any kind or character) arising out of or related to any operations conducted or actions taken under or pursuant to this Agreement or on the Lands by Operator or its agents, contractors, subcontractors, servants or employees, including without limitation, violation of law, order, rule or regulation.

- b. No Representation or Warranties. Owner makes no warranty, express, implied or statutory with respect to the Lands or the ownership thereof.
- c. Liens. Operator shall, at its sole expense, keep the Lands free and clear of any lien and encumbrance resulting from Operator's activities hereunder.
- d. Assignment. This Agreement may not be assigned in whole or part by Operator without the prior written approval of Owner.
- e. Hazardous Materials. Operator shall, at its sole cost and expense, promptly clean up, remove or take other legally-authorized remedial action with regard to any contamination or damage to soil or ground water on or about the Premises for which it is responsible and that is caused by any substance or material (each, a "*Hazardous Material*") that is (x) defined as a hazardous substance, hazardous material, hazardous waste or toxic substance under any law (each, an "*Environmental Law*") or (y) controlled or governed by any Environmental Law; and (ii) Operator shall not violate any Environmental Law on, under, or with respect to the Use of the Premises or Operator's Site. Operator shall give Owner written notice of any breach or suspected breach of the foregoing covenants, promptly upon learning of such breach, and undertake such clean up, removal or remedial action in a manner designed to minimize the impact on Owner's activities and operations on lands.

14. Said right-of-way for road access granted herein shall remain in full force and effect and shall continue until such time as said well is plugged and abandoned, and final restoration is complete.

15. This is the entire Agreement between the parties with respect to the transactions contemplated herein and shall supersede all previous oral and written negotiations, surface agreements, commitments, and understandings between the parties and/or their predecessors hereto with respect to the subject Lands and matter hereof.

16. Notice by either party shall be promptly given in writing and mailed to:

**Owner**

Mark S. Goldstein  
Big Thompson Investment Holdings, LLC  
1205 West Elizabeth Street, PMB 134  
Fort Collins, CO 80521

**Operator**

Mark S. Goldstein  
Triton Energy Services, LLC  
1205 West Elizabeth Street, PMB 134  
Fort Collins, CO 80521

17. This agreement shall be binding on and inure to the benefit of the Parties, their respective heirs, successors, personal representatives, agents, tenants, purchasers and assigns.

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

Big Thompson Investment Holdings, LLC

Triton Energy Services, LLC





By: Mark S. Goldstein, Authorized Representative By: Mark S. Goldstein, Authorized Representative