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SURFACE USE AGREEMENT

This Surface Use Agreement is made and entered into by and among Dorothy Ann and Jackie B. Caddell, individuals, whose address is: 707 County Road 441, La Veta, Colorado 81055, hereinafter referred to as Caddell, and Rocky Mountain Gas Supply LLC, a New Mexico limited liability company whose address is P.O. Box 2105, Roswell, New Mexico 88202-2105, hereinafter referred to as "RMGS", or the "Operator".

WHEREAS, Caddell, and RMGS desire to enter into this Surface Use Agreement covering those Huerfano County, Colorado, hereinafter referred to as the "Lands".

Township 29 South, Range 69 West, 6th P.M.  
Section 4: Lot 7, Abeyta Creek Subdivision

WHEREAS, RMGS owns and/or holds certain oil and gas leases upon all or part of the lands, with the oil and gas leasehold estates created thereby, being hereinafter collectively referred to as the "Leases" and

WHEREAS, RMGS is the operator designated by the working interest owners of the Leases, with authority under an Operating Agreements to drill wells on the Lands and conduct related oil and gas development operations for and on behalf of the owners of the Leases.

WHEREAS, the Leases grant the right as to the lands covered by the Leases to explore for, drill for and produce oil, gas and associated hydrocarbons and to install, operate and maintain all equipment and facilities necessary or desirable for such purposes and to perform all other operations with respect to oil and gas development for the purposes of transporting, storing, possessing and marketing production, and/or necessary or desirable for any methods of secondary, tertiary or other enhanced recovery, together with the right of ingress and egress necessary or desirable to accomplish any or all of the foregoing on the lands covered by the Leases, and such activities are collectively referred to in this Agreement as "Oil and Gas Operations"; and

WHEREAS, Caddell and RMGS desire to enter into this Agreement for the purpose of specifying the terms and conditions by which RMGS shall have access to and use of the surface estate of the Lands in conducting Oil and Gas Operations under the terms of the Leases, as provided below;

NOW THEREFORE, for adequate consideration, the receipt and sufficiency of which are hereby acknowledged, RMGS shall have access to and use of the surface estate of the Lands for Oil and Gas Operations under the following terms and conditions:

DEVELOPMENT PLAN:

1. RMGS plan to drill the Caddell #1 at a location of 1310 FSL and 1246, of Section 4, T29S,R69W, and continue drilling the well until the Entrada formation has been encountered to a total depth of 5800 feet, more or less.

## SURFACE DAMAGES:

2. Operator will pay Caddell a one time sum of [REDACTED] for use of a surface site not to exceed 1.5 acres. Operator shall pay such sum prior to commencement of heavy equipment operations at each well site. Operator agrees to utilize the smallest pad size needed to perform oil and gas operations. During construction of the surface site, Operator will fill in the existing stock pond with dirt, and dig a new similar stock pond at a site on Lot 6 to be designated by Caddell.
3. The consideration paid by Operator pursuant to this paragraph shall not cover actual damages to cattle or other ranch animals, fences, gates, culverts, buildings or other structures or personal property located on the Lands, and Operator shall be required to repair, replace or pay for any damage to property or injury to persons resulting from Operator's Oil and Gas Operations; provided, however, the payments made by Operator pursuant to this paragraph shall be full compensation for use of the applicable Well Site for usual and customary oil and gas exploration, drilling, completion, reworking, equipping, production and related operations.
4. Operator will access the well from the NW/4 corner of Lot 6. <sup>Set 7.500</sup> Operator will exit US Highway 160 onto the existing exit near the mailboxes on the south side of the highway. Caddell owns an easement along the highway right of way that will allow RMGS to enter the NE/4 of Lot 6, cut the fence and install a cattle guard, then improve the existing road that follows the south side of the fence to the gate at the NW/4 of Lot 7. Operator will replace the gate with a cattle guard. Operator will then improve the existing pathway to the surface site and lay down a gravel access road. Operator will mark the entrance road as private, and Operator will use the road as the primary entrance to the Lands by Operator, Operator's employees and contractors. Operator will pay Caddell [REDACTED] per rod (16.5 feet) for the right-of-way and usage of the entrance road. Operator will be responsible for maintaining the access road. Operator will contact the owners of Lot 6 prior to commencing construction.
5. In the event production is established, Operator will pay to Caddell [REDACTED] per rod for all pipeline right-of-way damages.
6. Operator shall use its best efforts to utilize common rights-of-way and trenches in order to minimize surface impacts.
7. All disturbed areas affected by drilling or subsequent operations, except areas reasonably needed for production operations, shall be reclaimed as early and as nearly as practicable to their original condition, including the removal of all debris and waste materials. Well Sites are to be kept clean and waste materials cleaned up so they are not blown by wind or allowed to flow onto other portions of the Lands.
8. In the event the well is plugged and abandoned, the Access Road shall be closed, graded and recontoured. As applicable, compaction alleviation, restoration and revegetation of the Well Site and Access Road shall be performed to the same standards as established for interim reclamation.
9. All reclamation work shall be completed within six months of plugging a Well, unless surface access is prohibited by adverse weather conditions.
10. Operator will consult with the US Soil Conservation published data for all seeding mixtures used to reclaim disturbed areas.

#### GENERAL OIL & GAS ACTIVITIES:

11. Operator shall conduct all operations on the Lands as a prudent operator and in a manner which will minimize, insofar as shall be reasonably practicable, the impact of such operations on the Lands. In the conduct of all operations, Operator shall comply with all federal, state and local rules and regulations, environmental and otherwise, which apply to all operations, including without limitation, all regulations imposed by the Colorado Oil & Gas Conservation Commission ("COGCC") and the bonds required by the Huerfano County, Colorado Commissioners.

#### NOTICES:

12. Unless RMGS is otherwise notified in writing, notices and other communications shall be given by mail, fax or in person in care of:

Dorothy Ann and Jackie B. Caddell  
707 County Road 441  
La Veta, Colorado 81055

Any communications to RMGS shall be made as follows:

Rocky Mountain Gas Supply  
P.O. Box 2105  
Roswell, New Mexico  
Attn: John Worrall  
Telephone: 505-622-5893  
Facsimile: 505-622-6671

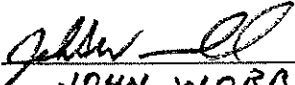
#### MISCELLANEOUS:

13. No alcohol or firearms of any sort shall be in the possession of employees or contractors of Operator while on the Lands.
14. No hunting or fishing by employees or contractors of Operator shall be permitted while on the Lands.
15. Upon execution of this Agreement, it shall be recorded in the real estate records of Huerfano County, Colorado.
16. This Agreement shall inure to the benefit of, and be binding upon, the heirs, successors, personal representatives and assigns of the parties. Its covenants shall run with the land and shall bind the parties to this Agreement and their respective heirs, successors, personal representatives and assigns forever. This Agreement shall be governed by and construed according to the laws of Colorado. It may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all counterparts shall, together, constitute the single agreement of the parties.

Executed to be effective the 5 day of November, 2002.

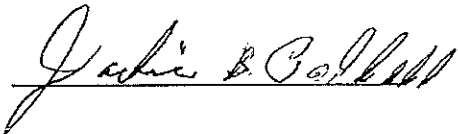
ROCKY MOUNTAIN GAS SUPPLY, LLC

DOROTHY ANN CADDELL

By   
Name: JOHN WORRALL  
Title: PRESIDENT

By \_\_\_\_\_

JACKIE B. CADDELL

By 

STATE OF NEW MEXICO }

COUNTY OF CHAVES }

Before me, the undersigned authority, on this day personally appeared John Worrell of Rocky Mountain Gas Supply, LLC, a NEW MEXICO Limited Liability known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as his free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 3 day of October, 2002.

My Commission Expires: 4/16/06

Notary

Public Karen J. Haman

STATE OF COLORADO }

COUNTY OF \_\_\_\_\_ }

Before me, the undersigned authority, on this day personally appeared Dorothy Ann Caddell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as her free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

My Commission Expires: \_\_\_\_\_

Notary

Public \_\_\_\_\_

STATE OF ~~COLORADO~~ TEXAS

COUNTY OF TARRANT

Before me, the undersigned authority, on this day personally appeared Jackie B. Caddell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as her free act and deed for the purposes and consideration therein expressed.

Given under my hand and seal of office this 5<sup>th</sup> day of November, 2002.

My Commission Expires: March 5, 2006

Notary

Public Denita Sherwood

