

## **SURFACE USE AGREEMENT**

THIS SURFACE USE AGREEMENT ("Agreement") is entered into by and between Clyde L. Hemberger and Janice E. Hemberger, husband and wife, ("Owner"), whose address is 2490 North County Rd. #3, Loveland, Colorado 80538 and Carrizo Niobrara LLC. ( Company ), whose address is 500 Dallas Street, Suite 2300, Houston, Texas 77002.

WHEREAS, Owner is the owner of the surface of certain lands located in Weld County, Colorado, being described as follows:

**Township 8 North. Range 60 West. 6<sup>th</sup> P.M.**  
**Section 26: S/2SE/4 and E/2E/2NE/4**

WHEREAS, Company owns the leasehold right to access the Property and use so much of the surface as is reasonably necessary to explore for and produce oil and gas therefrom; and,

WHEREAS, Company and Owner desire to enter into this Agreement as a supplement to, but not in derogation of, Company's current leasehold rights in said lands.

NOW THEREFORE; in consideration of Company's agreement to pay the sum of \$10.00, Dollars the sufficiency of which is hereby acknowledged, and the mutual promises and covenants contained herein:

Except for claims and damages resulting from Company's negligence, Owner hereby releases and discharges Company, its agents, employees, contractors and licensees from and against any and all claims by Owner for damages, of whatsoever nature and character, including, but not limited to, diminution in value of the Property, arising from, incident to, or in connection with Company's oil and gas operations on the Property, including, but not limited to: locating, drilling, stimulating, completing, restimulating, recompleting, deepening, producing, maintaining, plugging, and abandoning the oil and gas well shown below, whether as a dry hole or at the end of its productive life; installing and operating associated pipelines and production facilities; and, constructing, maintaining and reclaiming the well pad, production facilities, pipelines and roads (collectively the "Operations") (the well/wells and production facilities are hereinafter collectively referred to as the "Well")

Owner hereby grants, demises and conveys such easements and rights-of-way on and across the Property as may be necessary or convenient for the Operations. Company shall have the right to drill the well within the specified surface area described above, including directional wells that produce from and drain lands other than the Property, provided such lands are validly pooled with all or any portion of the lands included in Company's oil and gas lease covering the Property, and so long as such locations are permitted locations under the then applicable well spacing regulations of the Colorado Oil and Gas Conservation Commission ("COGCC") or exceptions granted thereto by the Director of the COGCC.

**ADDITIONAL PROVISIONS**

1. Company may exercise its rights hereunder for all purposes necessary or convenient for Company to perform the Operations, including the right of unimpeded ingress and egress across the Property to access the Well, and to install and operate pipelines. Company may assign or delegate to a third party the right to install and operate pipelines in order to connect the Well to a gas gathering system. The access easement shall be non-exclusive and capable of use by Owner and its successors, lessees and assigns, so long as such use does not interfere with or impair the Operations, and with the permission of Company, which permission shall not be unreasonably withheld.

2. Notwithstanding Owner's release of Company from any and all damage claims, Company shall repair to Owner's satisfaction, or otherwise compensate Owner, for damage to personal property or to improvements on the Property, such as damage to buildings, fences, gates, culverts and livestock, or for other such extraordinary losses or damages caused by Company. Company agrees to promptly repair or compensate Owner for such extraordinary physical losses and damages, but shall not be liable for any consequential damages. Any failure to reach mutual agreement with respect to such repair or compensation shall not be deemed to constitute a breach or abrogation of this Agreement, nor to terminate or diminish the grants, conveyances, rights and obligations contained herein.

3. Company hereby agrees to indemnify and hold Owner harmless from and against any and all third party claims, losses, liability, damages, and causes of action for personal injury or property damage arising out of Company's Operations, unless, and to the extent that, Owner's negligence causes or contributes to such third party claims.

4. Owner has requested that all consultation be conducted directly with Owner. Accordingly, Owner shall have the responsibility of notifying any affected tenant, lessee or other party who may own or have an interest in any crops or surface improvements which could be affected by the Operations. Owner agrees that all damages claimed by a surface tenant, lessee or other such party resulting from the Operations shall be settled by Owner, and Owner hereby agrees to indemnify and hold Company harmless from and against any such claims.

5. Company agrees to perform all reclamation in accordance with the rules and regulations of the COGCC, unless a variance therefrom is granted by the COGCC upon the request of Owner. Company shall endeavor to keep the well pad, the production facilities, and the pipeline and access easements free of weeds and debris and to control erosion.

6. Company shall construct and install the well pad, roads, pipelines and production facilities, including, but not limited to, pumping units, tanks, heater/treaters, separators and emission control units, within the are shown on the plats attached as Exhibits hereto. Except as specified herein, including on the attached plats, Company shall not occupy the surface of the Property except in the event of an emergency or for reasonable incidental and temporary activities, and Company shall be strictly and solely responsible for any damages that may occur as a result of such emergency activities.

7. Owner acknowledges and agrees that Company has consulted in good faith with Owner as to its proposed Operations, in accordance with COGCC requirements, or hereby waives such requirements. Owner expressly waives the application of any COGCC setbacks inconsistent with this Agreement, including, but not limited to, setbacks for high density areas and surface lot lines.

(a) Company has provided Owner with the COGCC Form 2A ("Oil and Gas Location Assessment") for the Well and said Form 2A accurately reflects the provisions of this Agreement.

(b) Owner agrees not to object to said Form 2A and hereby waives any right granted by COGCC rule to comment on said Form 2A, to request an extension of the comment period, to request an onsite inspection pursuant to COGCC policy, or to appeal the approval and issuance of the Form 2A, and any related Form 2 ("Application for Permit to Drill").

~~(c) Owner shall not oppose Company in any agency or governmental proceedings, including but not limited to the COGCC, County, City or local government, or other governing body proceedings, related to Company's operations on the Property, including but not limited to drilling, workovers, well deepenings and recompletions, provided that Company's position in such proceedings is consistent with this Agreement.~~

8. Owner expressly acknowledges and agrees that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligation of Company to accommodate Owner's use of the surface of the Property, existing or future, and waives any statutory or common law claim to the contrary.

9. Owner hereby:

(a) AGREES [ ] to allow the Colorado Division of Wildlife to enter upon the Property for the purpose of inspecting wildlife habitat; and,

(b) CONSENTS [ ] to the inclusion of site-specific conditions of approval, stipulations, or restrictions related to wildlife habitat protection or mitigation in the COGCC permit(s) for the designated Well.

(c) CONSENTS [ ] to an archeological survey if necessary to obtain a permit to drill.

10. Owner agrees to include a note on any annexation, subdivision plat, planned unit development or other land use designation for which Owner may apply to put successors or assigns on notice that the Property is subject to this Agreement. Company may also record this Agreement or a Memorandum thereof. In all other respects, however, the parties shall hold the provisions of the Agreement in confidence.

11. In construing this Agreement, no consideration shall be given to the fact or presumption that one party has had a greater or lesser hand in drafting this Agreement than any other party.

12. This Agreement shall be subject to, and construed under, the laws of the State of Colorado, without regard to its conflict of law provisions, and jurisdiction and venue shall be solely in the courts of the State of Colorado, subject to the right of either party to remove a matter to federal court.

13. Each of the undersigned principals of the parties represents and warrants that such person has the requisite corporate or legal authority to bind the respective parties to this Agreement.

14. Concerning any matter relating to the Operations, Owner may contact:

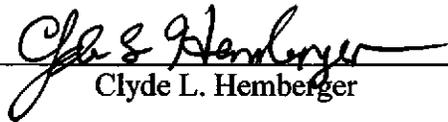
Operator: Carrizo Niobrara LLC.  
Person to Contact: Scott Hudson  
Address: 500 Dallas Street, Suite 2300  
Houston, Texas 77002  
Phone Number: 713-328-1000  
Fax: 713-328-1060  
Email Address: scott.hudson@crzo.net

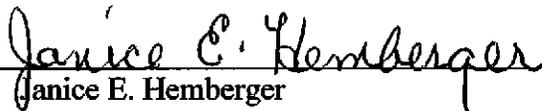
15. This Agreement shall extend to, bind and inure to the benefit of, Owner and Company, and their respective heirs, personal representatives, successors and assigns.

16. This Agreement shall become effective when it is fully executed and shall remain in full force and effect until Company's leasehold estate expires or is terminated, and Company has plugged and abandoned the Well and conducted reclamation in accordance with this Agreement and applicable COGCC rules and regulations, except that any release, discharge or indemnity from and against liability contained herein shall survive the expiration of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement this 22 day of June, 2012.

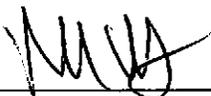
OWNER:

  
Clyde L. Hemberger

  
Janice E. Hemberger

COMPANY:

CARRIZO Niobrara LLC.

   
Richard H. Smith, Vice President of Land