

RATIFICATION AND CONFIRMATION OF SURFACE USE AND DAMAGE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, effective July 16, 2013, Randy Frank Spadafora and Edward Louis Spadafora, as Owners, did grant to Gunnison Energy Corporation, n/k/a Gunnison Energy LLC ("Gunnison Energy"), as Operator, the rights outlined in that certain Surface Use and Damage Agreement (the "SUA") covering certain land in Gunnison County, Colorado, more particularly described therein; and

WHEREAS, the SUA was originally executed by Randy Frank Spadafora and Gunnison Energy only, while Edward Louis Spadafora appears to have agreed to the terms of the SUA by that certain Letter Agreement dated August 7, 2013 (the "Letter Agreement"). Thereafter, a Memorandum of SUA was recorded on August 19, 2013 as Reception No. 622198 in the Official Records of Gunnison County, Colorado; and

WHEREAS, the SUA grants the rights to Gunnison Energy as described therein; and

WHEREAS, Edward Louis Spadafora appears to have agreed to the terms of the SUA by the Letter Agreement; and

WHEREAS, the SUA and Letter Agreement may have created confusion as to whether Edward Louis Spadafora granted to Gunnison Energy any surface rights as described in the SUA;

NOW THEREFORE, in consideration of good and valuable consideration, and in order to remove confusion as to the surface rights Gunnison Energy acquired in the SUA, Edward Louis Spadafora does hereby adopt, ratify, and confirm the Surface Use and Damage Agreement dated effective July 16, 2013, and hereby grants, sells, and conveys unto Gunnison Energy those rights Gunnison Energy acquired in the SUA. Furthermore, the undersigned wish to confirm the rights Randy Frank Spadafora and Edward Louis Spadafora granted to Gunnison Energy by the SUA and the Letter Agreement by execution of this instrument. The undersigned do hereby declare that Gunnison Energy does in fact hold the rights as outlined in the Agreement.

IN WITNESS WHEREOF, this instrument is executed on the date set forth below, to be effective July 16, 2013, the date of the Surface Use and Damage Agreement.

SIGNATURES

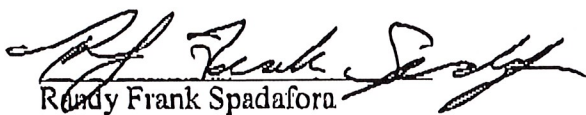
OPERATOR:

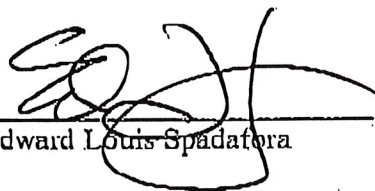
GUNNISON ENERGY CORPORATION, n/k/a GUNNISON ENERGY LLC

By: 

M. Brad Robinson, President

OWNERS:


Randy Frank Spadafora


Edward Louis Spadafora

ACKNOWLEDGEMENTS

STATE OF COLORADO)
) SS:
 COUNTY OF DENVER)

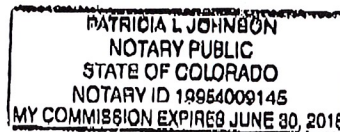
The foregoing instrument was acknowledged before me this 27th day of January 2015,
 by **M. Brad Robinson**, President of Gunnison Energy Corporation, n/k/a Gunnison Energy LLC.

Witness my hand and official seal.

Patricia L. Johnson
 Notary Public

My Commission Expires:

June 15, 2015



STATE OF COLORADO)
) SS:
 COUNTY OF GUNNISON)

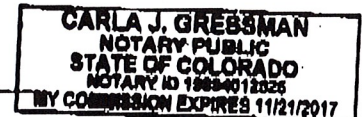
The foregoing instrument was acknowledged before me this 3 day of Feb 2015,
 by **Randy Frank Spadafora**.

Witness my hand and official seal.

Carla J. Gressman
 Notary Public

My Commission Expires:

11-21-17



STATE OF COLORADO)
) SS:
 COUNTY OF GUNNISON)

The foregoing instrument was acknowledged before me this 3 day of Feb 2015,
 by **Edward Lewis Spadafora**.

Witness my hand and official seal.

Carla J. Gressman
 Notary Public

My Commission Expires:

11-21-17



COPY

SURFACE USE AND DAMAGE AGREEMENT

This Surface Use and Damage Agreement ("Agreement") is made and entered into as of the 16th day of July, 2013 by and between **Randy Frank Spadafora**, whose address is 9950 – 3200 Road, Hotchkiss, CO 81419 and **Edward Louis Spadafora**, whose address is 4037 N. Townsend Ave., Montrose, CO 81401 (collectively "Owner") and **Gunnison Energy Corporation**, whose address is 1801 Broadway, Suite 1200, Denver, CO 80202 ("Operator", which term includes Operator's contractors, wholly-owned subsidiaries, agents and employees)

- A. Owner is the surface owner and lessor of the following lands, located Gunnison Colorado (hereinafter referred to as the "Property"):

Township 11 South, Range 90 West, 6th P. M.
HES 73 in Sections 17 and 20

Containing 159.39 acres, more or less

- B. Owner's surface ownership of the Property is subject to the rights of the oil and gas mineral estate, which has been leased to Operator and Operator's use of the surface must be conducted in due regard for the Owner's use of the Property;
- C. The terms of the oil and gas lease dated July 16th, 2013 ("Lease") grant the Operator the right to use so much of the surface as is reasonably necessary to explore and develop its oil and gas leasehold estate by drilling, testing, completing, maintaining and operating wells (hereinafter referred to as "Wells") on the Property and/or deepening, recompleting, or reworking any Wells; and
- D. This Agreement sets forth the parties' rights and obligations regarding the continued use of the Property by Owner and Operator's operation and development of its oil and gas leasehold estate.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. SURFACE USE BY OPERATOR

Subject to the conditions set forth in this Agreement, Operator (which term shall include the Operator's contractors, wholly-owned subsidiaries, agents and employees) shall have the right to enter upon and use the surface of the Property for the purpose of conducting oil and gas operations thereupon, including, but not limited to, drilling, testing, completing, maintaining and operating Wells, and performing workovers, well deepenings, recompletions, fracturing, gathering and other production activities, and constructing the necessary facilities related thereto (collectively, "Oil and Gas Operations").

2. FACILITY LOCATIONS

a. Wells. Operator shall have the right to drill Wells (including horizontal and directional wells) at any location upon the Property 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 an exception granted pursuant to COGCC regulations. Operator may seek increased spacing density from the COGCC if production data indicate that such increased density is justified to achieve maximum efficient recovery and prevent waste.

b. Location of Wells and Facilities. Operator shall have the right to conduct Oil and Gas Operations and to locate and construct the necessary facilities related thereto at any location upon the Property; provided, however, Operator agrees to consult with Owner in advance and to use good faith efforts to accommodate Owner's concerns to a commercially reasonable extent regarding the location of well pads, access roads, pipelines, power lines, battery sites, gathering systems and/or other facilities on the Property. Operator and Owner have consulted on the location of two potential well pads on the Property and Owner and Operator do hereby agree that Operator may, without further consultation, build a well pad, access road and pipeline within that portion of the Property depicted by yellow shaded rectangles labeled Drilling Location Window ("Drilling Windows") set forth on Exhibit "A", which is attached hereto and by this reference made a part hereof. Because Operator anticipates drilling multiple wells from a single well pad, Operator further agrees to use its best efforts to limit the size of the well pad for any Well to approximately five (5) acres of land while drilling, and to use its best efforts to limit the size of permanent facilities to no more than three (3.0) acres for each Well, unless otherwise agreed in writing by Owner.

c. Existing Structures. Operator shall not drill any Well within 300 feet of any existing residence, building, or barn on the Property without the prior written consent of Owner; unless the drilling is conducted within one of the Drilling Windows and provided, however that the Operator's right to conduct Oil and Gas Operations hereunder shall not be affected or impeded by any future building or other structure constructed by Owner.

3. ACCESS

In exchange for the consideration set forth above, Owner hereby grants and conveys to Operator an easement for access to the Property to conduct Oil and Gas Operations for so long as the Lease remains in effect, which easement shall inure to the benefit of Operator's assigns and successors in interest under the Lease, subject to the following conditions:

a. Access Roads. Operator agrees to use good faith efforts to use existing roads if reasonably possible. If it is not reasonably possible for Operator to use existing roads, Operator shall have a right to construct, at Operator's sole cost and expense, all necessary access roads across the Property ("Access Roads"); provided, that Operator shall make a good faith effort to accommodate the concerns of Owner as to the location of any such Access Roads unless such Access Roads are located within a Drilling Window. In the event that any Well on the Property is capable of producing oil or gas in commercial quantities, Operator shall have the right, at its sole cost and expense, to upgrade any Access Road to an

all-weather road. Owner shall also have the right to use any Existing Roads or Access Roads, provided that such use shall not interfere with Operator's access to well sites.

b. Gates at Entrances. At Operator's sole cost and expense, Operator shall be required to install a steel gate at any point where an Access Road constructed by Operator crosses an existing fenceline and enters upon the Property.

c. Culverts. At Operator's sole cost and expense, Operator shall be required to install culverts of adequate size in all drainages crossed by any Access Road constructed on the Property by Operator.

d. Width and Disturbance. Operator agrees to use good faith efforts to minimize the width of the Access Road and any additional roads to avoid unreasonable surface disturbance and tree removal. The maximum width of any road shall be 16 feet.

e. Written Easement. Upon written request by Operator, Owner shall promptly execute and record an easement and right of way in favor of Operator, granting Operator the right of access across the Access Roads as specified in this Agreement.

4. GENERAL PROVISIONS

Operator's use and enjoyment of the Property to conduct Oil and Gas Operations shall be subject to the following provisions:

a. Fences. Operator shall install and maintain, at its sole cost and expense, a fence sufficient to exclude sheep and cattle around Well locations with a cattleguard with a gate installed at the point where the access road encounters the fence line;

b. Gates. Operator shall install and maintain, at its sole cost and expense, all gates and locks necessary for the security of any wells or facilities placed upon the Property by Operator. Fences encountered by any road constructed by Operator on the Property shall be H-braced, with a steel gate installed at the Operator's sole expense. Such gates and locks shall be kept closed at all times;

c. Painting. Operator shall paint any production facilities for any wells, including wellhead guards, with paint approved by the COGCC;

d. Clean Facilities. Operator shall make a good faith effort to maintain all well locations and the Access Road(s) safe and in good order, free of noxious weeds, litter and debris;

e. No Firearms, Hunting, Explosives, or Dogs. None of Operator's employees or authorized agents or any other person under the direction or control of Operator shall be permitted to carry firearms or any weapon while on the Property, and such persons shall not hunt or fish on the Property and shall not trespass on the Property for the purposes of hunting or fishing or recreational uses, without specific written permission of the Owner. No explosives shall be used on the Property except as necessary to conduct seismic surveys. No dogs owned or

in control of Operator, its authorized agents or employees will be permitted on the Property at any time.

f. Weed Control. All equipment used by Operator on the Property shall be cleaned and free of all contaminants and noxious weeds prior to entering the Property;

g. Tree Removal. Trees are to be cut prior to any earth moving activities, and Owner agrees to flag any trees that are not to be removed within twenty four (24) hours after receiving notice of the proposed earth moving operations. Upon written request by Owner, all trees shall be limbed by Operator and left in log lengths at a site designated by Owner, with all stumps and other limbs and slash to be buried in a reserve pit at time of cleanup;

h. Reserve Pits. After drilling operations are completed for each Well and the reserve pit has been allowed to dry, Operator shall then be required to backfill the pit to reasonably conform to the surrounding area. There shall be no surface disposal of produced water on the Property without Owner's prior written consent;

i. Top Soil. Top soil shall be removed by Operator and kept separate from subsoils, and shall be spread over the disturbed areas in the cleanup phase prior to reseedling. The disposition of rocks shall be determined by mutual agreement of the parties at the time of cleanup;

j. Re seeding. Operator shall reseed and/or control noxious weeds until areas disturbed by Operator are restored as nearly as practical to their condition prior to disturbance by Operator;

k. Compliance with Laws and Regulations. Operator agrees to comply with all applicable Federal, State, or local laws, rules and regulations, including, without limitation, those pertaining to environmental regulation, contamination, clean-up, or disclosure. Operator shall furnish Owner with a copy of any citation or complaint which may be received by Operator from any governmental agency alleging a violation of applicable laws with respect to Oil and Gas Operations on the Property. Any amendments to said laws, rules and regulations which are enacted after the effective date of this Agreement, to the extent such amendments provide for stricter regulation of Operator's activities than those outlined in this Agreement, the provisions of the stricter laws, rules and/or Regulations shall govern Operator's activities.

l. Flowlines and Pipelines. Subject to good faith consultation with the Owner regarding location (except that said consultation is not required within a Drilling Window), Operator shall have the right to lay and or replace any and all flowlines and pipelines for gas and liquids necessary in connection with Operator's Oil and Gas Operations on the Property. Owner shall grant to Operator the rights-of-way needed by Operator for any new flowlines or pipelines. All flowlines and pipelines shall be located at a depth of 36 inches from the surface or below. Should Owner request the relocation of any flowlines or pipelines on the Property, and Operator agrees to such relocation, Owner shall be responsible for any and all relocation costs. Upon termination of this Agreement, Operator shall promptly take all actions necessary to clean up, mitigate the effects of use, and render all flowlines or pipelines

installed by Operator environmentally safe and fit for abandonment in place. All such clean up and mitigation shall be performed in compliance with all federal, state and local laws and regulations;

m. No Recording without Mutual Consent. This Agreement may not be recorded without the mutual written consent of Owner and Operator.

5. NOTICE OF OPERATIONS

Operator shall provide notice to Owner not less than thirty (30) days before initial commencement of Oil and Gas Operations on the Property, setting forth: (i) the estimated starting date for the proposed activity; (ii) the name of the operator and the name, address and phone number of the individual representing the operator who can be contacted concerning the proposed operations; (iii) the legal description indicating the quarter quarter section upon which the operations will be conducted; and (iv) a statement that the Owner has the responsibility for notifying any affected tenant of the proposed operations; and thereafter Operator shall provide at least forty eight (48) hours prior written notice to Owner of any drilling, reworking, fracturing, deepening or other major operation on the Wells. **THIS AGREEMENT SETS FORTH THE SOLE AND EXCLUSIVE NOTICE AND CONSULTATION REQUIREMENTS BETWEEN OPERATOR AND OWNER REGARDING THE PROPERTY. WITH THE EXCEPTION OF THE NOTICE AND CONSULTATION REQUIREMENTS SET FORTH HEREIN, OWNER EXPRESSLY WAIVES ALL OTHER NOTICE AND CONSULTATION REQUIREMENTS, INCLUDING THOSE SET FORTH IN RULES 305 AND 306 OF THE RULES OF THE COGCC.** Regardless of the foregoing notice and/or consultation requirements, Operator shall have immediate access to and across the Property in the event of an emergency, and shall provide written notice to Owner as soon thereafter as is reasonable in light of the circumstances.

6. SURFACE RECLAMATION

INTERIM RECLAMATION

Operator shall be responsible for all costs of reclamation for its Oil and Gas Operations on the Lands, and shall, weather permitting, within sixty (60) days after testing and completion operations for a well determined to be a commercial well are completed, reclaim all areas which were disturbed by the drilling operations, and which are not needed for future production operations, to as close to their original condition as possible. Interim reclamation will include the following:

- a) Removing drilling waste materials and filling of pits and holes.
- b) Removing compaction from the soil in areas no longer needed for oil and gas operations by cross-ripping the soil to a depth of eighteen (18) inches.
- c) Closing drilling pits by drying out the pit and backfilling it by replacing the soil layers in their original positions.

- d) Reseed the disturbed area in the first favorable season with a seed mixture agreed to between Operator and Owner.

FINAL RECLAMATION

If any well covered by this agreement is not completed as a commercial well, Operator shall, weather permitting, within sixty (60) days after plugging and abandonment of the well, reclaim all areas which were disturbed by the drilling operations to as close to their original condition as possible. Final reclamation will include the following:

- a) Removal of all production test equipment and debris.
- b) Removal or treatment of any remaining production test waste or contamination from spills or releases following COGCC rules.
- c) Backfill all drilling and production test pits by replacing the soils in their original positions.
- d) Correct subsidence over closed drilling and production test pit locations by adding additional topsoil.
- e) Well pad location will be re-contoured to as near as practical to the condition in existence prior to any Oil and Gas Operations.
- f) Perform compaction removal, restoration, and revegetation on the well site to the same standards as those for interim reclamation.
- g) Entire disturbed area will be reseeded with a seed mixture agreed to by Owner and Operator.
- h) Unless Owner requests in writing that the existing access road be reclaimed and reseeded, the access road will remain "as is" for Owner's use upon final cessation of Oil and Gas Operations by Operator; provided that Owner shall thereafter assume any and all liability for the use and upkeep of said access roads. If, within 30 days after notice of final cessation of Oil and Gas Operations by Operator, Owner requests in writing that any access road be reclaimed and reseeded, Operator shall reseed and reclaim said access road as close as reasonably practicable to its original condition within a reasonable time thereafter.

Operator and Owner may mutually agree to limit the scope of any reclamation

7. SURFACE DAMAGES

This Agreement shall constitute the agreement for surface damages required pursuant to the COGCC's Rules and Regulations or under any oil and gas lease covering the Property. Operator shall pay surface damage payments in the following amounts as the sole and

complete compensation for all damages, if any, resulting from Oil and Gas Operations on the Property by Operator. Payments shall be due on the day prior to Operator commencing any of the following activities.

a. **Well Location.** Operator shall pay the sum of \$15,000 per well location as a final settlement for any and all damages arising from the construction and use of each well location hereunder. Where Operator locates more than one Well on a given well pad, Operator shall pay the additional sum of \$5,000 for each of the second and any subsequent Wells located on such well pad location.

b. **Use of Existing Roads.** Operator shall have the right to use all existing roads on the Property. Compensation for such use is agreed to be the graveling of the existing road to be used by Operator.

c. **Access Roads.** Operator shall pay the sum of \$30.00 per rod for each new Access Road constructed by Operator as a final settlement for any and all damages caused by the construction and use of said Access Road by Operator.

d. **Pipelines and Flowlines.** For each pipeline or flowline constructed by Operator on the Property, Operator shall pay to Owner the sum of \$22.00 per rod as a final settlement for any and all damages arising from such construction and use by Operator, except that no amount shall be charged where Operator uses the bed of an existing road or an Access Road for burial of any pipelines. In addition, Operator shall not be required to duplicate payment hereunder for multiple pipelines or flowlines laid within the same right-of-way. Each pipeline right-of-way shall be limited to not more than forty-five (45) feet in width during construction, or twenty-five (25) feet in width after construction is completed, or such additional portions of the surface as may be reasonably necessary for required maintenance of the pipelines.

e. **Power Lines.** For each power line installed by Operator on the Property, Operator shall pay to Owner the sum of \$22.00 per rod as a final settlement for any and all damages arising from such installation and use, unless such power line is buried within the same right-of-way as the pipelines described herein, in which case no additional payment shall be required.

8. NOTICE TO SUBSEQUENT PURCHASERS

The terms, covenants and conditions hereof shall be binding upon and shall inure to the benefit of the parties and their respective heirs, devisees, executors, administrators, successors and assigns.

9. LIMITATION OF LIABILITY, RELEASE AND INDEMNITY

a. **NO PARTY SHALL BE LIABLE FOR, OR BE REQUIRED TO PAY FOR, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES TO ANY OTHER PARTY FOR ACTIVITIES UNDERTAKEN WITHIN THE SCOPE OF THIS AGREEMENT;**

b. Except as to claims specifically addressed by the terms of this Agreement, each party shall be and remain responsible for all liability for losses, claims, damages, demands, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation attorneys' fees and other costs associated therewith (all of the aforesaid herein referred to collectively as "Claims"), arising out of or connected with each such party's ownership or operations on the Property, no matter when asserted, subject to applicable statutes of limitations. Each such party shall release, defend, indemnify and hold the other parties, their officers, directors, employees, successors and assigns, harmless against all such Claims, upon timely written notification setting forth all particulars of the Claim. This provision does not, and shall not be construed to, create any rights in persons or entities not a party to this Agreement, nor does it create any separate rights in parties to this Agreement other than the right to be indemnified for Claims as provided herein;

c. Upon the assignment or conveyance of any party's entire interest in the Property, that party shall be released from its indemnification in Section 9(b) above, for all actions or occurrences happening after such assignment or conveyance.

10. TERM

This Agreement shall become effective when it is fully executed and shall remain in full force and effect until the Lease expires or is terminated, and Operator has plugged and abandoned all wells owned all or in part by Operator and complied with the requirements of all applicable oil and gas leases pertaining to removal of equipment, reclamation, cleanup and all other applicable provisions of the leases and existing laws and regulations. When this Agreement ceases to be in full force and effect, the parties shall execute any and all releases necessary to evidence the fact that this Agreement shall no longer apply to the Property.

11. NOTICES

Any notice or other communication required or permitted under this Agreement shall be sufficient if deposited in U.S. Mail, postage prepaid, addressed to each of the following:

If to Operator:

Gunnison Energy Corporation
1800 Broadway, Suite 1200
Denver, Colorado 80202
Attention: President

If to Owner:

Randy Frank Spadafora
9950 - 3200 Road
Hotchkiss, CO 81419

Any party may, by written notice so delivered to the other parties, change the address or individual to which delivery shall thereafter be made.

12. VENUE AND APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without reference to its conflict of laws provisions. The parties agree to use good faith efforts to try and informally resolve any controversy or claim arising out of or relating to this Agreement, or the breach thereof. If such good faith efforts are not successful, the parties shall attempt to resolve the dispute promptly by mediation with a mediator deemed acceptable to both parties and the costs of the mediator shall be borne equally by Operator and Owner. All negotiations and discussions during mediation are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

In the event that negotiations and mediation prove unsuccessful to resolve the dispute, venue for any and all actions arising in connection with this Agreement shall be District Court in Gunnison County, Colorado. The prevailing party in any litigation shall be entitled, in addition to all other relief, to reimbursement for its attorney fees and cost.

13. ENTIRE AGREEMENT

This Agreement sets forth the entire understanding among the parties hereto regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by all parties.

14. SUPERSEDE PREVIOUS AGREEMENT

This Agreement supersedes and replaces that certain Surface Use and Damage Agreement dated January 18, 2008 covering the Property by and among the parties ("January 18 Agreement"). By execution of this Agreement the parties do hereby terminate the January 18 Agreement and it shall be of no further force or effect.

The parties have executed this Agreement on the day and year first above written.

OPERATOR:

GUNNISON ENERGY CORPORATION

By: 

M. Brad Robinson, President

OWNERS:

Randy Frank Spadafora
Randy Frank Spadafora

Edward Lewis Spadafora

STATE OF COLORADO)
) ss:
COUNTY OF ~~DENVER~~)
 Delta

The foregoing instrument was acknowledged before me this 6 day of Aug.
2012, by M. Brad Robinson, as president of Gunnison Energy Corporation,

Witness my hand and official seal.

Notary Public

My Commission Expires:

STATE OF COLORADO)
) ss:
COUNTY OF Delta)

The foregoing instrument was acknowledged before me this 6 day of August
2013, by Randy Frank Spadafora and Edward Lewis Spadafora.

Witness my hand and official seal.

Kimberly A Adam
Notary Public

My Commission Expires:

6.14.15

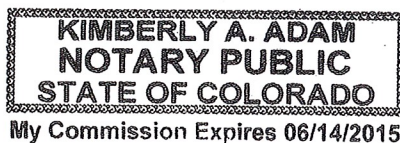


Exhibit "A"
to that certain
Surface Use and Damage Agreement
Dated 2/23/2012

