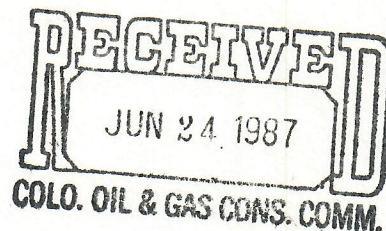


## MALLON OIL COMPANY

1099 18th Street, Suite 2750, Denver, Colorado 80202  
(303) 293-2333



June 22, 1987

Mr. Jim McKee  
Colorado Oil and Gas Conservation Commission  
1580 Logan Street  
Suite 380  
Denver, CO 80203

*NEW* ✓  
RE: Mallon #18-6 1215' FNL, 1610' FWL  
Sec 18, T7 North, R86 West  
Routt County, Colorado

Dear Jim:

Prior to beginning construction of the Mallon #18-6 well-site a Surface Use Agreement was reached with the surface owner, Mr. Robert L. Waltrip.

The State Surface Reclamation Bond will therefore not be needed and we are requesting that it be released. Copies of the executed agreements are enclosed.

If you have any questions, please call me at (303) 293-2333.

Sincerely,

MALLON OIL COMPANY

Joe H. Cox, Jr.  
Engineer

JHC:cg  
Enclosures

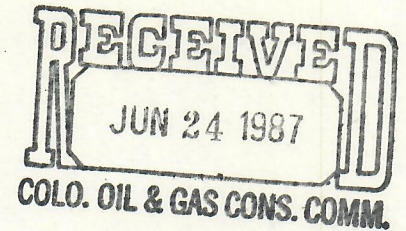


00221450



SURFACE USE AGREEMENT

Oil and Gas



For and in consideration of the covenants and consideration provided for herein, R. L. Waltrip ("Grantor") and Mallon Oil Company ("Grantee") enter into this surface lease agreement ("Agreement") as of the 18<sup>th</sup> day of June, 1987.

WHEREAS, Grantee has represented to Grantor that it has an interest in or has the right to obtain an interest in certain oil and gas leases underlying surface properties owned by Grantor; and

WHEREAS, Grantor and Grantee desire to execute an agreement giving Grantee the right to enter onto certain of Grantor's properties for the specific purposes herein listed, and subject to the limitations herein contained;

NOW, THEREFORE, Grantor and Grantee agree as follows:

1. GRANTING CLAUSE. Grantor hereby grants to Grantee the permission to drill one oil and gas well (Permitted Well) on the property described on Exhibit "A", together with the right of access along Grantor designated roads for the purpose, and only for the purpose, of drilling, completing, and producing from the Permitted Well; PROVIDED, HOWEVER, that this grant is conditioned upon the agreement that Grantee shall not use Grantor's property for any purpose other than as specified. Among the uses which are not permitted under the terms of this Agreement are access by Grantee to adjacent lands not owned by Grantor or access to Grantee's adjacent leasehold interests underlying Grantor's surface properties which are not included in this granting clause.

2. TERM. This Agreement shall remain in force and effect from the date hereof for so long as the Oil and Gas Lease underlying any portion of the surface estate as to which Grantee seeks permitted access hereunder shall be in effect and held by Grantee by production from a Permitted Well on Grantor's Surface State, and for so long as Grantee shall comply with the terms and obligations of this Agreement. This Agreement shall be for the sole purpose set forth in Paragraph 1.



3. GRANTEE'S DUTIES. At the expiration of this Agreement, Grantee shall:

a. File a notice of release of all easements, rights and privileges created hereunder with the Clerk and Recorder of Routt County, Colorado;

b. Tender all monies which are due and owing to Grantor hereunder as of the date of expiration of the Agreement; and

c. Perform all other duties hereunder which were required of Grantee prior to the date of expiration.

Upon written termination, Grantee shall have an additional one hundred and twenty (120) days within which to remove all equipment, materials and improvements or they shall be and become the property of Grantor.

4. CONSIDERATION.

For the privileges herein granted, Grantee agrees to pay Grantor the sum of Five Thousand Dollars (\$5,000.00), payable upon executing this agreement.

5. COUNTY ROAD 52 - ACCESS, DAMAGE AND RECLAMATION.

a. The parties agree that Grantee's primary access to the drillsite shall be County Road 52 between U. S. Highway 40 and the drill site. This shall not restrict the Grantee's use of any other public roads, or use of private roads under any separate agreements.

b. The parties acknowledge that they are concerned as to possible damage to County Road 52 as a result of the heavy drilling and completion equipment being moved in and out from the drill site. The parties agree that Grantee will notify Grantor at least five (5) days in advance of the scheduled commencement of the drill site preparation. An authorized representative of Grantee shall contact Jeff Johnston, Ranch Foreman of Wolf Mountain Ranch who will act as Grantor's representative. Mr. Johnston may be contacted at Wolf Mountain Ranch, (303) 276-3493. Mr. Johnston (or a substitute designated by Grantor) and Grantee's representative shall contact an excavating contractor. Excavating contractor, Grantee's representative and Grantor's representative will inspect the road and determine its condition prior to drill site preparation.



c. After the drilling and completion operation has been completed and the drilling rig removed, (whether or not the well is a producer), Grantee agrees to return County Road 52 to its condition as determined by excavating contractor and the representatives of Grantor and Grantee. This restoration and reclamation work on the road is to be completed within fifteen (15) days after the removal of the drilling rig and completion rig from the well site, subject to reasonable extensions of time due to inclement weather conditions.

d. Security for Grantee's obligation for repair and reclamation of County Road 52 shall be included in the letter of credit for \$6,000.00 more fully described below.

6. GRANTEE'S COOPERATION FOR USE AS WATER WELL.

a. In the event Grantee encounters subsurface water in drilling, Grantee agrees to submit a plugging plan to the State of Colorado which would make it possible for Grantor, at some later date to reenter the well and utilize said subsurface water. Grantor anticipates that such a plugging plan would call for a plug below the subsurface water and above any hydrocarbons which might possibly contaminate the subsurface water. Grantee agrees to use its best efforts to have the State approve such a plan.

b. Both parties understand that Grantee shall complete its plugging plan, including its surface plug of the well, and that Grantor shall not assume Grantee's plugging obligation in any manner whatsoever. Any attempt on Grantor's part to reenter the well to utilize any subsurface water shall be subsequent to the completion of all of Grantee's obligations and responsibilities to the State regarding plugging and after release of plugging bond.

c. Grantee furthermore agrees to provide a marked log attained during their drilling process identifying any watersands existing, and their depth.

7. RECLAMATION OF DRILLING SITE

a. Upon termination of this Agreement or upon Grantee's termination of operations on the property, Grantee agrees to reclaim the drill site within one year of completion of the plugging process, excluding December through April and excluding other periods of inclement weather.



b. Grantee agrees to remove the bentonite mud solution used in the drilling process in the surface steel tanks.

c. Reclamation of the drill site shall be in accordance with the site reclamation plan recommended by the U.S. Soil Conservation Service (Exhibit "B"). Grantee agrees to give written notification to Grantor five (5) days prior to commencement of the reclamation work. Grantee agrees to cooperate with Grantor or Grantor's representatives who shall be permitted to observe and comment on the reclamation work and whether or not said reclamation conforms to Exhibit "B".

d. Grantee shall provide security to Grantor in the amount of \$6,000.00 evidenced by a letter of credit in the same general format as the letter of credit which has been tendered by Grantee to the Board of Commissioners for Routt County. There shall be one letter of credit for \$6,000.00 as security to Grantee for the reclamation of the drill site (in the event of a non-producing well) and for the reclamation and restoration of Routt County Road 52 as set forth above. Grantor's right under the letter of credit shall be released upon completion of (i) restoration work on County Road 52, (ii) reclamation of drill site; and (iii) reclamation of the reserve mud pit.

e. The \$6,000.00 letter of credit is not intended to be the exclusive remedy for Grantor. Grantee hereby covenants and promises to restore and reclaim both County Road 52 and the drill site. The letter of credit is merely additional security for Grantees' promise to perform.

8. ACCESS ROAD FROM COUNTY ROAD 52 TO DRILL SITE. Grantee agrees to reclaim the access road from County Road 52 to the drill site as part of the reclamation process specified in the two preceding paragraphs; provided, however, Grantee must give Grantor at least five days written notice prior to Grantee commencing reclamation operations so that Grantor may decide whether or not Grantor wants the access road to the drill site reclaimed. Grantor shall notify Grantee within said five (5) day period if Grantor does not want Grantee to reclaim the access road. If Grantee does not receive notice from Grantor, then Grantee shall proceed to reclaim the access road and return it to its condition prior to commencement of the drilling operation.

9. USE OF LANDS.

a. Access Roads. Grantee shall not use any



non public roads within the Wolf Mountain Ranch boundaries without prior written approval from the Grantor.

b. Fences. Grantee agrees to install cattle guards or gates if needed to enter the drill pad and production pad and facilities upon request of the Grantor. Grantee further agrees to rebuild to original specifications any existing fence that is removed or damaged as a result of the Grantee's operations. Grantee will fence pit upon removal of drilling rig and fence tank battery and pumping unit following completion of the well as a producer.

c. Water. Grantee shall not use any water originating on, stored on or flowing through Grantor's Surface Estate without the prior written consent of Grantor.

d. Exposed Firearms, Dogs and Liquor. Grantee agrees that none of its employees, agents, independent contractors or assigns will carry onto Grantor's property exposed firearms, dogs, intoxicating beverages or nonprescription drugs. Grantee further agrees that no recreational vehicles shall be allowed on Grantor's property except where used for transportation in the conduct of Grantee's business.

f. Pipeline. Grantor and Grantee make no agreement with respect to permission, damages or location of pipelines. Should Grantee wish to pipe oil, gas, or other hydrocarbons from the drill site, the parties will negotiate permission, price and location of pipelines at that time.

10. CONTRACTORS AND EMPLOYEES. Grantee will be responsible for assuring that every contractor or employee who enters Grantor's property shall comply with the terms of this Agreement.

11. DAMAGES AND INDEMNITY. Whether or not Grantee contracts with contractors to carry out its program, it agrees that it will be fully and solely responsible to Grantor for the damages and indemnity as herein set forth.

a. Damages. Grantee shall be responsible for all damages or injury directly or proximately caused by its operations on the Surface Estate to Grantor's personal or real property or to persons; and Grantee shall be responsible for all damages directly or proximately caused by breach of any term of this Agreement.

b. Indemnity. Grantee agrees to indemnify and hold Grantor harmless against any loss, liability, expense or damage incurred by third persons or corporations



for injury to or death of persons or damages to real or personal property arising out of or resulting from Grantee's actions on the Surface Estate, including violation of law, order, rule or regulation.

c. Trespass. Grantee understands that the construction of a passable road onto Grantor's lands may cause severe trespass problems to Grantor. Grantee's obligation under this Agreement include prevention of such trespass by all reasonable means, and Grantee agrees to indemnify and hold Grantor harmless from all expense or damages arising out of trespass which occurs as a result of Grantee's operations.

12. BREACH AND REMEDIES. If either party breaches any covenant condition or agreement to be performed or observed hereunder, the non-defaulting party shall give the defaulting party written notice of said breach and a thirty (30) day opportunity to cure such breach or default. If the defaulting party does not cure within said thirty (30) day period, the non-defaulting party may take whatever action may be permitted in law or equity to remedy the breach or default.

13. ADDITIONAL PROVISIONS.

a. Cooperation. Grantor agrees that it will cooperate with Grantee in satisfying necessary permitting requirements. This Agreement shall be deemed to satisfy local, state and federal statutory and regulatory surface owner consent provisions, subject to the terms hereof.

b. Insurance. Grantee shall maintain, with financially sound and reputable insurance companies or associations, insurance in an amount which a reasonable, prudent operator would deem sufficient to satisfy all damage and indemnity claims of Grantor as may arise. Grantee shall provide to Grantor, at Grantor's request, evidence of maintenance of such insurance.

c. Liens. Grantee shall, at its sole expense, keep the property free and clear of liens and encumbrances resulting from its activities hereunder.

d. Assignment. This Agreement may be assigned by Grantee with Grantor's prior written consent which consent shall not be unreasonably withheld. Any assignee shall expressly consent in writing to the terms of this Agreement. This Agreement shall be deemed to be a covenant running with the land.



e. Notice. All notices shall be in writing and shall be served personally or by certified mail to the addresses set forth herein, or such other address as the party may from time to time designate in writing.

f. Definitions. The use of the words "Grantor" and "Grantee" herein shall be deemed to mean such party, its agents, assigns, employees or successors in interest.

g. Interpretation. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Colorado, except to the extent that it will be necessary to comply with Federal laws, rules and regulations. No covenants or conditions not expressed in this Agreement shall effect or be effective to interpret, change or restrict the express provisions of this Agreement. No change or amendment of any of the terms hereof shall be binding upon either party unless in writing executed by both parties, and no waiver shall be deemed effective unless executed in writing.

14. LETTER OF CREDIT. The letter of credit referenced in paragraphs 5 and 7 above shall be in the format as set forth on Exhibit "C" attached hereto and incorporated herein by this reference.

This agreement may be executed in duplicate counterparts by the parties and shall be effective on the date the last party signed its counterpart.

EXECUTED THIS 18<sup>th</sup> day of June, 1987.

GRANTEE:

ATTEST:

Mallon Oil Company

\_\_\_\_\_  
Secretary

BY: [Signature]

Its: \_\_\_\_\_

1099 18th Street, Suite 2750  
Denver, Colorado 80202



GRANTOR:

R. L. Waltrip  
R. L. Waltrip

Address:  
c/o Waltrip Enterprises, Inc.  
1929 Allen Parkway, Suite 200  
Houston, Texas 77019



EXHIBIT "A"

(Exhibit "A" to that certain Surface Use  
Agreement between R. L. Waltrip, Grantor,  
and Mallon Oil Company, Grantee)

Legal Description of Drill Site:

1214.8 feet from the north line and  
1609.9 feet from the west line of Section  
18, Township 7 North, Range 86 West.



# MALLON OIL COMPANY

1099 18th Street, Suite 2750, Denver, Colorado 80202

(303) 293-2333

## RECLAMATION PLAN

### MALLON #18-6 DRILL SITE

Location: 1215' FNL, 1610' FWL, Section 18, T7N-R86W, Routt County, Colorado.

1) If the site is abandoned:

- a) Pits will be filled at the earliest practical date following operations, allowing sufficient time for drying.
- b) Surface will be restored to natural contours.
- c) Disturbed areas will be re-covered with approximately six inches of topsoil from stockpile.
- d) Re-seeding of disturbed areas will be carried out in late fall, following germination season as follows:

6 1/2 lb./acre Smooth Brome (Mancher)  
 10 lb./acre Pubescent Wheatgrass (Luna)  
 5 lb./acre Milk Vetch, Cicer (Monarch)  
 Planted no deeper than 1/2" with seeding drill.

(The above re-vegetation plans are based on recommendations from Pat Davey - U.S. Soil Conservation Service, Steamboat Springs, Colorado.)

2) If the well is a producer:

- a) Pits will be filled at the earliest practical time following drilling and completion activities, allowing sufficient time for drying.
- b) Tank battery will be located at a minimum impact site, near a road where possible. Portions of drilling pad not needed for producing operations will be restored to natural contours.
- c) Disturbed areas not involved in production well site will be re-covered with topsoil from stockpile.
- d) Re-seeding of disturbed areas not being used in production operations will be carried out in late fall, following germination season as follows:

6 1/2 lb./acre Smooth Brome (Mancher)  
 10 lb./acre Pubescent Wheatgrass (Luna)  
 5 lb./acre Milk Vetch, Cicer (Monarch)  
 Planted no deeper than 1/2" with seeding drill.

(The above re-vegetation plans are based on recommendations from Pat Davey - U.S. Soil Conservation Service, Steamboat Springs, Colorado.)



EXHIBIT "C"

(Exhibit "C" to that certain Surface Use Agreement between R. L. Waltrip, Grantor, and Mallon Oil Company, Grantee).

FORMAT FOR  
IRREVOCABLE STANDBY LETTER OF CREDIT

LETTER OF CREDIT # \_\_\_\_\_  
EFFECTIVE DATE: June \_\_\_\_\_, 1987  
EXPIRATION DATE: June \_\_\_\_\_, 1988

R. L. Waltrip  
Waltrip Enterprises, Inc.  
P.O. Box 13548  
1929 Allen Parkway  
Houston, Texas 77219

Dear Mr. Waltrip:

At the request of and for the account of our customer, Mallon Oil Company, 1099 18th Street, Denver, Colorado, 80202, we hereby establish our irrevocable standby letter of credit number \_\_\_\_\_ in your favor for an amount up to, but not exceeding, the aggregate sum of Six Thousand and no/100 U.S. Dollars (\$6,000.00).

It is a condition of this letter of credit that it will be automatically renewed and extended for additional one-year periods from and after the present expiration date set forth above, unless you are notified at your address set forth above in writing by certified mail sixty (60) days prior to the aforesaid present expiration date or any extended expiration date that the letter of credit will not be renewed. It is further agreed that after receiving such notice, you shall have ten (10) days from and after the expiration date of this letter of credit then in effect (including any relevant extended expiration date) to submit your draft or drafts for payment of any charges made within the original and/or extended validity period of this letter of credit.

Funds under this letter of credit are available to you by your draft drawn on us at the site, along with the presen-



tation of this letter of credit and accompanied by the following signed statement:

A signed statement by R. L. Waltrip, stating that the amount drawn is due to Mallon Oil Company's lack of performance related to the surface use agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 1987, and relating specifically to the well identified as Mallon Well #18-6, specifically located 1214.8 feet from the north line and 1609.9 feet from the west line of Section 18, Township 7 North, Range 86 West.

We hereby agree with bonafide holders that all drafts drawn under and in compliance with the terms of this credit shall meet with due honor upon presentation and delivery of documents as testified to this association if drawn and presented for negotiations to our office at 410 17th Street, Denver, Colorado, 80202, on or before our close of business on June \_\_\_\_\_, 1988.