

WAIVER OF SURFACE RIGHTS

THIS AGREEMENT made effective as of the ____ day of _____, _____.

BETWEEN:

[NAME OF SURFACE OWNER]
[address]
("Owner")

- and -

[NAME OF MINERAL LESSEE]
[address]
("Lessee")

WHEREAS, Lessee is the lessee under that one certain Mineral Lease attached hereto as "Exhibit A";

AND WHEREAS, Lessee wishes to waive Lessee's rights to the surface rights for the property located at _____ [street address], also known as _____ [legal description] (the "Property");

NOW THEREFORE, for the consideration of _____ dollars (\$_____), and other good and valuable consideration, Owner and Lessee hereby agree as follows:

1. Waiver of Surface Rights

Lessee hereby waives and releases, on behalf of Lessee and Lessee's heirs, successors and assigns, any and all rights of ingress and egress, and all other rights of every kind and character whatsoever, to enter upon or to use the surface of the Property or any part thereof, including, but not limited to, the right to enter upon the surface of the Property for purposes of exploring for, developing and/or producing the oil, gas and/or other minerals in and under, and that may be produced from, the Property, or any other purpose incident thereto.

2. Off-Site Production

Nothing herein shall be construed to prevent Lessee or Lessee's heirs, successors or assigns from exploring for, developing and/or producing the oil, gas and/or other minerals in and under, or that may be produced from, the Property, by pooling or by direction drilling under the Property from well sites located on other property.

3. Mineral Leases Subject Hereto

Any lease of oil, gas and/or other minerals now on or hereafter covering the Property, or any portion thereof, shall be expressly made subject to the terms and provisions of this Agreement.

4. Attorney's Fees

Any party to this Agreement who is the prevailing party in any legal proceeding against any other party brought under or in connection with this Agreement, or the subject matter hereof, shall be additionally entitled to recover any court costs and reasonable attorney's fees, and all other litigation expenses, including, but not limited to, deposition costs, travel, and expert witness fees from the non-prevailing party.

5. Indemnity

Each party hereby agrees to protect, indemnify and hold harmless the other party from and against any and all losses, costs (including, but not limited to, the costs of litigation and attorney's fees), claims, causes of action, damages and liabilities that are attributable to the breach by the indemnifying party of any of the provisions of this Agreement.

6. Notices

All notices required or permitted to be given pursuant to this Agreement shall be delivered by hand to the party for which it is intended, or sent by regular post, or transmitted by facsimile, telegram, electronic email or other form of transmitted or electronic message, or sent by prepaid courier directly to such party at the following addresses, respectively:

TO OWNER:

[address]

[facsimile number]

TO LESSEE:

[address]

[facsimile number]

or at such other address as either party may stipulate by notice to the other. Any notice delivered by hand or prepaid courier or sent by facsimile or electronic email shall be deemed to be received on the date of actual delivery thereof. Any notice so sent by telex, telegram or similar form of transmitted message shall be deemed to have been received on the next day following transmission. Any notice sent by regular post shall be deemed to have been received on the third (3rd) day following mailing.

THIS IS A 5-PAGE DOCUMENT.