

SAMPLE MASTER SURFACE USE AGREEMENT
(Source: Oil and Gas Accountability Project)

MASTER SURFACE USE AGREEMENT
(NAME OF RANCH/INDIVIDUAL)

FOR AND IN CONSIDERATION of the sum of Ten and no/100 dollars (\$10.00) and other good and valuable consideration, in hand paid, the receipt of which is hereby acknowledged, I/We, _____, whose address is _____, hereinafter referred to collectively as "Grantor", do hereby grant unto (NAME OF OIL/GAS COMPANY), whose post office address is _____, hereinafter referred to as "Grantee", its successors and assigns, -non-exclusive rights and privileges to use Grantor's lands located in _____, limited to the following described lands (hereinafter called the "Subject Property"):

Being more fully described in Exhibit "A", attached hereto and made a part hereof;

as may be necessary or convenient for Grantee's operations under the terms and provisions contained in this Agreement. Grantee's rights under this Agreement shall be exercised in accordance with the terms of this Agreement.

Grantor and Grantee agree to the following:

Terms and Conditions:

1. Conceptual Operating Plan:

Surface use Grantee and Grantor shall agree on, and update from time to time, an overall surface use plan showing gathering facilities, roads and wellpads on the (name of property).

2. Wells and Centralized Wellpads

Grantor and Grantee shall mutually and reasonably select one centralized wellpad ("Centralized Wellpad") located in each governmental quarter section. Grantee agrees to drill all oil and gas wells on the Subject Property from such Centralized Wellpads.

Each such Centralized Wellpad constructed or utilized hereunder shall be 4.0 acres or less in size during drilling operations and each such Centralized Wellpad shall be reclaimed to a production area of one-half (0.5) acre or less upon completion of drilling operations. All wells and production equipment shall be located on the production area. Each Wellpad shall be located on reasonably level ground in order to reduce cut and fill, and to enhance reclamation. Grantee will strive to fully accommodate any concerns or issues that Grantor may have with the placement and reclamation of each Centralized Wellpad and Grantor agrees that his agreement to any Centralized Wellpad location shall not be unreasonably withheld.

Further, within thirty (30) days of Grantor's receipt from Grantee of a proposed Centralized Wellpad location, which shall include a plat setting out the location of the wellpad and production area together with any associated access roads and gathering pipe lines, Grantor shall either i) deliver to Grantee written consent for such Wellpad location, or ii) propose in writing a

reasonably equivalent alternative location for such Centralized Wellpad (including any associated roads and gathering pipe lines). Grantor's failure to respond or to propose a reasonably equivalent alternative within said thirty (30) day period shall be deemed as Grantor's consent to Grantee's proposed placement for such Well. Grantee agrees to minimize the amount of surface disturbance and the size each Centralized Wellpad to the maximum extent possible.

Prior to the construction of each Wellpad, Grantee shall remove the top six inches (6") of topsoil and stockpile such topsoil beside the Wellpad location for future reclamation. Any trees that are larger than four inches (4") in diameter that are removed as a result of building each Wellpad, Roadway or gathering line shall be cut in lengths no greater than twenty four inches (24") and shall be delivered and stacked at the _____ located on the Subject Property.

Each reserve pit and blow pit shall be fenced in manner to prevent domestic livestock from entering such pits. Grantee shall install fencing around i) any equipment that requires the installation or construction of containment structures or berms, and ii) any open trenches. Fencing shall be installed in such a manner to prevent domestic livestock from entering such fenced area(s).

Grantee may install, on the production area of each Centralized Wellpad, the following equipment on for each Well located thereon: i) wellhead, ii) separator, iii) meter, and iv) dehydrator. To the maximum extent possible, equipment located on each Centralized Wellpad shall be centralized at one location. To the maximum extent possible, facilities located at each Centralized Wellpad, together with related gathering lines and valves, shall be equipped with remote monitoring and control equipment in order to reduce vehicle traffic on the Subject Lands. Grantee shall provide Grantor, and record, a copy of the "as built" cut/fill and survey plat for each Wellpad on which a well is drilled.

3. New Roadway Construction:

All equipment, vehicles and personnel related to operation of the _____ shall access the Subject Property from _____.

All equipment, vehicles and personnel related to Grantee's operations on the Subject Property in Sections _____ shall access the Subject Property from the _____ utilizing existing road located in the _____. At Grantor's option, upon reasonable written notice to Grantee, Grantor may require Grantee to utilize a reasonable alternative "Ranch Headquarters Entry Point" for all oil and gas operations; such point of entry and any necessary additional road shall be constructed and maintained by Grantee.

Grantee agrees to the maximum extent possible, to utilize existing roadways for access to its operations on the Subject Property. A "Trunk Road" shall be identified to access each of the following areas of the _____: 1) _____, 2) _____, and 3) the _____. "Trunk Roads" shall be improved (including the placement of gravel, and bridge and culvert construction) to a width of not more than twenty (20) feet measured from road edge to edge of road surface. Grantee may also clear and use up to an additional six (6) feet on each side of the trunk road for construction and maintenance of bar ditches, water diversions, and for removal of sight obstructions considered as such by Grantee for the safety of traffic, pedestrians, livestock and wild game.

Feeder Roads shall be constructed from “Trunk Roads” to individual Wellpads. Feeder roads shall be constructed to a width of not more than twelve (12) feet measured from edge to edge of road surface. Grantee may also clear and use up to an additional four (4) feet on each side of the feeder road for construction and maintenance of bar ditches, water diversions, and for removal of sight obstructions considered as such by Grantee for the safety of traffic, pedestrians, livestock and wild game.

Grantee shall maintain roads utilized by it on the subject property, with an adequate crown and in good and passable condition. Grantee shall maintain trunk roads in the _____ free of snow. Grantee shall post thirty-five (35) miles per hour speed limit signs on “Trunk Roads” and twenty-five (25) miles per hour speed limit signs on feeder roads, at sites mutually agreeable to Grantor and Grantee. Grantee shall place speed bumps, if requested by Grantor, in said New and/or existing Roadways as speed control. Grantee shall promptly provide Grantor and record an “as built” survey of each Trunk and Feeder Road.

4. Gathering Pipe Lines: _____ Except where the written consent of the Grantor is obtained, Grantee shall:

- 1) utilize low pressure gas gathering lines (with compressor and gas conditioning facilities, if any, located off the _____,) to gather gas from the subject property;
- 2) utilize water gathering pipelines (with water disposal facilities located off the _____) to gather and dispose of water from the Subject Property;
- 3) locate gas and water gathering lines, at least 36 inches below the surface of the ground, in a single trench located within 20 feet of the centerline of a Trunk or Feeder Road;
- 4) utilize a single gas gathering and a single water gathering pipeline to move gas and water off the Subject Property which is produced from operations of the _____;
- 5) utilize a single gas gathering and a single water gathering pipeline to move gas and water off the Subject Property which is produced from Grantee’s operations in _____ (Note: the exit point for _____ operations may be the same).

Gathering pipeline routes shall be mutually and reasonably selected by Grantor and Grantee. Grantee will strive to fully accommodate any concerns or issues that Grantor may have with the placement of and/or operation of any gathering pipelines, and Grantor’s consent to any gathering pipeline route shall not be unreasonably withheld.

Further, within thirty (30) days of Grantor's receipt from Grantee of a proposed gathering line route, Grantor shall either I) deliver to Grantee written consent for such gathering pipeline, or ii) propose in writing a reasonably equivalent alternative route for such gathering line. Grantor's failure to respond or to propose a reasonably equivalent

alternative within said thirty (30) day period shall be deemed as Grantor's consent to Grantee's proposed route for such gathering pipeline.

Grantee shall have the right to conduct the following operations for all gathering pipelines installed on the Subject Lands: laying, constructing, maintaining, operating, repairing, replacing, removing pipelines, with all necessary valves, connections, and fittings for the transportation of oil, gas, and produced water, and erecting, maintaining and removing cathodic protection equipment on, over, under, through and across a strip of land forty feet (40') in width (the "Right-of-Way") during construction a gathering line and which shall revert back to twenty feet (20') in width centered on the midpoint between the applicable gas and water pipelines after initial construction.

Grantee shall provide Grantor and record an "as built" survey plat of New Pipeline.

5. New Electric Power Lines Construction:

Grantee may install Electric Power Lines on the Subject Property for the sole purpose of transporting and distributing electricity to Grantee's operations on the Subject Property within the right-of-way of any Trunk or Feeder Road.

Electric Power Line routes shall be mutually and reasonably selected by Grantor and Grantee. Grantee will strive to fully accommodate any concerns or issues that Grantor may have with the placement or operation of any Electric Power Lines and Grantor agrees that its agreement to any Electric Power Line shall not be unreasonably withheld. Further, within thirty (30) days of Grantor's receipt from Grantee of a proposed Electric Power Line route, Grantor shall either deliver to Grantee written consent for such Electric Power Line, or propose a reasonably equivalent alternative route for such Electric Power Line. Grantor's failure to respond or to propose a reasonably equivalent alternative within said thirty (30) day period shall be deemed as Grantor's consent to Grantee's proposed route for such Electric Power Line. Grantee shall provide Grantor and record an "as built" survey plat of each Electric Power Line.

6. Sandstone/Gravel:

In the event Grantor identifies and opens any stone or gravel pits on the Subject Property, Grantor shall sell to Grantee stone/gravel from Grantor's existing pits on the Subject Property, or from other mutually agreeable and reasonable sites on the Subject Property, according to the following rate schedule:

Five and no/100 dollar (\$5.00) per cubic yard of stone/gravel extracted by Grantee.

Grantor shall provide written confirmation to Grantee as to the exact location of the approved sandstone/gravel pits and Grantee agrees to only remove sandstone/gravel from the identified areas located on the Subject Property.

7. Water:

Grantor shall sell freshwater to Grantee from Grantor's existing stock ponds on the Subject Property according to the following rate schedule:

One Dollar (\$1.00) per barrel, a barrel being equal to forty-two (42) U.S. gallons, more or less.

Grantor and Grantee agree that withdrawal of water shall be limited to insure that adequate water is provided for stock and wildlife on the Subject Property. Grantor shall provide written confirmation to Grantee as to the exact location of each water source, timing of withdrawal and the amount of water which may be withdrawn from such source. Grantee agrees to only withdraw water from the identified sources on the Subject Property, and in the amounts and times specified.

8. Payments:

Effective January 1, 2008, and on January 1 of each fifth year thereafter, each payment described above shall be adjusted in amount in proportion to the change in the Consumer Price Index which has occurred between January 1, 2003 and January 1 of the applicable year. The change in the Consumer Price Index shall be as measured by the United States Department of Labor Statistics, Average Consumer Price Index (CPI) for all Urban Consumers, all items, for the United States, or any other measure hereafter employed by the Bureau in lieu of such index. Such adjusted amounts shall remain in effect until the subsequent five-year adjustment occurs. In the event of a change of ownership relating to either the Subject Property or the right(s) to receive any payment(s) hereunder, Grantee shall not be bound by same until it is furnished with satisfactory evidence in recordable form of said change of ownership. Further, Grantors acknowledge and accept that the provisions of this Agreement, including the rights to those payments contemplated hereunder, are covenants which touch and concern the Subject Property, and that none of the rights or obligations contained herein may be severed from the ownership of the Subject Property. All payments made hereunder by Grantee shall always and only be payable to the respective owner(s) of the Subject Property. Any late payment shall bear interest, from the date due until paid, in full, at a rate of fifteen percent (15%) per annum compounded annually, together with the costs, expense and attorney fees incurred in collecting such amount due.

Grantee shall pay the Grantor the following amounts:

Prior to commencement of drilling operations, Grantee shall compensate Grantor _____ for each "Well" drilled on the Subject Property.

Prior to commencement of the construction, improvement or use of any Trunk or Feeder Road on the Subject Property, Grantee shall compensate Grantor for each such Road at the rate of _____ per rod of Road, a rod being equal to sixteen and one half feet (16.5').

Prior to commencement of construction of any gas or water gathering pipeline on the Subject Property, Grantee shall compensate Grantor for up two (2) pipelines (one natural gas and one water pipeline initially installed in a single trench of not more

than forty-eight inches in width), not to exceed Sixteen and one half (16.5") inches in diameter for each pipeline, and the rate of _____ per rod (a rod being equal to sixteen and one half feet (16.5')).

Prior to commencement of construction of any Electric Power Line on the Subject Property, Grantee shall compensate Grantor at the rate of Fifty and no/100ths (\$50.00) per rod of electric power line (a rod being equal to sixteen and one half feet (16.5')).

Upon Grantor's receipt of payment from Grantee, Grantor shall acknowledge payment for construction of such New Roadway by executing a Receipt and Release, the form of which is attached as **Exhibit "B"** hereto and made a part hereof.

9. Noise:

After initial construction of a well or facility is completed, no engine, motor, compressor, piece of equipment and/or facility installed or operated by Grantee on the Subject Property, excepting only workover rigs, shall exceed the standard of 48.6 dB(A) Leq at a distance of 200 feet in any direction from the applicable equipment. In the event any operation on the Subject Property exceeds the standard set out in this paragraph, the Grantee shall promptly bring its operations into compliance with such standard.

10. Wildlife Winter Range and Hunting Season:

In order to protect big game winter range and Grantor's big game hunting uses of the Subject Property, during the period of October 1 through April 30 of each year, Grantee's operations on the Subject Property shall be limited to 1) production of oil and gas, and 2) emergency repair of equipment and facilities previously placed on the property. In any event, to the maximum extent possible, Grantee's operations on the property, if necessary during such period, shall be conducted between 10 A.M and 2 P.M. each day and shall be conducted in a manner designed to minimize adverse impacts on big game located on the Subject Property.

11. Compressors, Processing and Treatment Facilities:

No compressor nor any processing, conditioning nor treatment facility shall be located on the Subject Property, unless the prior written consent of the Grantor is first obtained.

12. Interim Reclamation:

After initial construction, each area of surface disturbance shall be promptly restored, to the maximum extent possible, to its original condition, or a better condition for grazing. Such interim reclamation shall be promptly completed by Grantee and shall include not less than the following:

- 1) the disturbed area shall be ripped and recontoured to conform with existing grade and no recontoured slope shall exceed a grade of five linear feet to one foot in elevation;
- 1) topsoil shall be replaced on the disturbed area to a quality and depth which meets or exceeds its original condition;
- 1) the disturbed area shall be revegetated utilizing a seed mixture, application rate, timing and reseeding method approved by the Grantor; if vegetation comparable to the original condition of the site is not established, such reseeding shall be continued until such vegetation is established;
- 1) foreign substances, unnecessary equipment shall be removed from each disturbed area;
- 1) erosion shall be adequately controlled, and if erosion occurs, shall be halted and fully remediated; and
- 1) noxious weeds shall be adequately controlled, and if such weeds appear on any disturbed area, Grantee shall promptly remove such noxious weeds from the disturbed area together with any such weeds which have spread onto other areas of the Subject Property.

The following areas are exempted from the interim reclamation requirement i) the driving surface and bar ditches of Trunk and Feeder Roads, and ii) the production area (not to exceed 0.5 acres) at each Centralized Wellpad

13. Final Reclamation:

Except as consented to in writing by Grantor, each well shall be promptly plugged and abandoned by Grantee in accordance with the applicable law upon cessation of production in paying quantities. Within thirty (30) days following the plugging and abandonment of each well, all surface equipment and surface appurtenances, together with all foreign substances (including gravel), associated with such well and related gathering pipelines shall be promptly removed by Grantee from the Subject Property and all unreclaimed and/or unvegetated areas previously disturbed associated the plugged well shall be reclaimed by Grantee in accordance with the standards set out in the Interim Reclamation paragraph above.

At least 30 days prior to reclamation of any roadway, Grantee shall provide Grantor written notice of such roadway reclamation, which shall include a plat of the roadway to be reclaimed. During the period prior to reclamation, Grantor may elect to retain any such roadway for ranch use by giving written notice to Grantee. Upon receipt of Grantor's election to retain such roadway, Grantee shall place the roadway, crown and bar ditches in good and passable condition, and shall thereafter be relieved of its obligation to maintain and/or reclaim such roadway.

14. Use And Enjoyment:

Grantee's surface use pursuant to this Agreement shall be non-exclusive. Grantor shall have to right to use the surface of the subject property in any manner which does not unreasonably interfere with the rights granted to Grantee hereunder, including without limitation, construction, installation and use of roads, utilities, ditches, wells, irrigation and water impoundment structures, trails, fences and buildings. Further, Grantor retains the exclusive right to grant rights-of-way, easements, rights to surface use to parties other than the Grantee; Grantor retains the exclusive right to grant hunting and fishing rights, and Grantor agrees not to construct water impoundments or structures which would interfere with Grantee's authorized surface use.

15. Gates and Fences:

In the event parties other than Grantee and Grantor have access over any road located on the Subject Property, Grantee agrees to construct and maintain, in good condition, four strand smooth wire fences at the edge of the bar ditch on each side of such road, in a manner that permits the reasonably safe and natural passage of wildlife across the property.

Grantee shall promptly restore all fences which may have been damaged during Grantee's operations on the Subject Property to as good a condition as such fences were prior to such operation(s). When any fence upon the Subject Property is required to be opened, such opening shall not be left unattended unless a good and sufficient gate or fence capable of turning domestic livestock shall be installed. All openings in fences shall be made by installing "H" braces six feet (6') in width, and constructed of pipe at least four inches (4") in diameter on both sides of such opening prior to cutting the fence, which shall be attached to the "H" braces. If Grantee shall breach any fence in constructing a road or pipeline, Grantee shall install a sixteen (16) foot steel pipe gate across such road or pipeline between the installed "H" braces.

Grantee shall install and maintain in good condition, at Grantee's expense, a sixteen (16) foot steel pipe gate, "H" braces (as described above) and adequate fences to prevent third party vehicle to the Subject Property at: i) the Orchard Unit Entry Point, ii) the Ranch Headquarters Entry Point, iii) each point a road enters the Subject Lands from adjacent public or private lands, iv) each point a road on which parties other than Grantee and Grantor have access connects with a road on which such third parties do not have access, and v) each point where fences cross Trunk or Feeder Roads. When requested to do so by Grantor, Grantee agrees to install a gated cattle guard with an adjacent pipe gate at each point described above.

Grantee agrees that such gates, cattle guards, "H" braces, and fences shall be maintained by Grantee in good and operable condition and that all exterior gates,

together with any other gate designated by Grantor from time to time, shall be locked at all times (except when being used for passage of vehicles or personnel) with a Grantee lock and a Grantor lock.

16. Prohibited Non Oil and Gas Activities:

Grantee shall not permit its agents, employees, contractors, subcontractors, or service company personnel to carry firearms, archery equipment, wildlife calls, weapons, spotting, optical or night vision equipment (other than as required for oil and gas operations), or to bring dogs or other animals on the Subject Property. Nor shall Grantee permit such persons to bring friends or family onto the Subject Property nor to picnic, barbeque, transport firewood, cut Christmas trees, hunt or injure wildlife, nor remove pine nuts, artifacts or other non-oil and gas materials from the Subject Property.

17. Monitoring of Grantee Operations:

Grantee shall reimburse Grantor, at a per diem rate of \$200/day for monitoring gate closure, access, Grantee's trash removal, Grantee's reclamation and other aspects of Grantee's operations on the _____ (sometimes referred to as "gate watch" fee). Grantor shall receive such compensation for each day, or part thereof, in which Grantee's dirt moving equipment, heavy equipment, cranes, drilling rigs and/or work over rigs are located on the Subject Property, and for each day during which Grantor or his designee meets with Grantee to discuss Grantee's operations on the Subject Property. In order to assist in Grantor's monitoring activities, Grantee agrees that i) each vehicle operated by Grantee, or its employees, subcontractors, or permitted invitees on the Subject Property shall have a yellow flag attached to its antenna located at least ten feet above the ground and clearly visible from a distance, ii) all exterior gates on the Subject Property shall be kept locked and Grantor shall be provided with a key, iii) Grantee shall utilize a separate lock type with a unique key for the Subject Property (the _____), and will quarterly provide the Grantor with an updated list of each individual and entity in possession of a _____ access key, iv) Grantee will quarterly provide Grantor with an updated list of Grantee's personnel responsible for all or a portion of Grantee's operations on the Subject Property together with the address, phone and cell phone numbers of each such employee, together with a twenty-four hour/seven days a week emergency contact number. Further, Grantee agrees not to permit nor authorize entry onto the Subject Property by any person who is not required to conduct its oil and gas operations on the Subject Property.

18. Livestock:

Grantee agrees to pay the fair market value for all domesticated livestock killed or injured by its operations on the Subject Property.

19. Notice:

Grantee shall notify Grantor or Grantor's representative prior to entry upon the Subject Property and departure from the Subject Property for any purpose associated with drilling operations, site construction, pipeline construction, or road construction.

20. Indemnification:

Grantee, its employees, contractors, agents, and assigns do hereby covenant and agree to indemnify, defend and hold Grantor free and harmless against any and all loss, damage, claims, injury, demands and suits which Grantor may suffer as a result of or related to Grantee's operations on the Subject Property, excluding any portion of such loss, damage, claim, demand or suit resulting directly from the negligence or willful misconduct of Grantor.

21. Compliance With Laws and Construction:

Grantee shall conduct its operations in a manner which fully complies with applicable laws, rules, regulations and lease terms and stipulations. This agreement shall be construed in accordance and subject to the laws of State of Colorado and subject to the jurisdiction of the Colorado Courts.

22. Time:

Time is of the essence regarding matters covered by this agreement and/or the agreements executed in the forms attached hereto.

23. Assignment:

Grantee, and its assigns, may assign its rights, benefits and obligations pursuant to this agreement and those related wellsites, roads, pipelines, electric power lines, other equipment and facilities, and or surface use on the Subject Property only to a single person or entity who is the single successor operator to En Cana Oil & Gas (USA) Inc. on the Subject Property. Grantor, and its assigns, shall be deemed to have proportionally assigned its rights, benefits and obligations pursuant to this agreement to any person or entity which acquires all or part of the surface of the Subject Property.

TO HAVE AND TO HOLD said Surface Use Agreement and the rights and privileges granted hereunder unto the said Grantee, its successors and assigns, for so long as the same shall be useful, necessary, or convenient for the above-named purposes. This agreement may be assigned in whole or in part by Grantee. Any assignee shall be bound by and subject to the terms and provisions of this Surface Use Agreement.

The terms, conditions and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto.

EXECUTED this ____ day of _____, _____ **but for all purposes effective** _____ (the "Effective Date").

GRANTOR

GRANTEE

By: _____

Title: _____

STATE OF

§

COUNTY OF

§
§

This instrument was acknowledged before me this ____ day of _____, 200__ by _____, Attorney-in-Fact of _____, on behalf of said corporation.

My Commission Expires: _____

Notary Public _____

STATE OF COLORADO

§
§
§

COUNTY OF

This instrument was acknowledged before me this ____ day of _____, 200__ by _____.

My Commission Expires: _____

Notary Public _____
