

**SAMPLE WATER WELL MITIGATION AGREEMENT  
(Origin Powder River Basin)**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as "Landowner" and \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as "Producer".

WHEREAS, Landowner has existing water wells within its property boundaries, providing Landowner water for domestic and agricultural/livestock water; and,

WHEREAS, Producer has acquired leases for the development of Coal Bed Methane Gas (CBM) and intends to drill and complete wells for the production of CBM; and,

WHEREAS, the development and production of CBM usually requires the production of water in conjunction with CBM and may require the localized reduction of water levels within certain individual strata of the Ft. Union Coals; and,

WHEREAS, Producer has advised Landowner that the production of water in association with gas could adversely affect the productive capacity and quality of Landowner's existing water wells.

NOW, THEREFORE, as consideration for the mutual covenant herein, in order to facilitate the multiple usage of the nature resources consistent with sound environmental practices, to mitigate potential adverse effects on the Landowner's water wells, to assure prompt and effective remediation, and to reduce the need for regulatory intervention by state and federal agencies, the Landowner and Producer agree as follows:

**DEFINITIONS:**

**"Ft. Union Coals"** - The Ft. Union Coals as used herein, shall mean those individual coal beds or several coal beds contained within the Tongue River member of the Ft. Union Formation, bounded above by the Wasatch Formation of Eocene, and below by the Lebo Shale member.

**"Circle of Influence (COI)"** - The area which includes the following wells identified as Permit Nos. (hereafter "identified permitted wells").

**“Impaired Water Well”** - Any water well properly permitted with the Wyoming State Engineer’s Office existing on the Landowner’s property or within the “COI”, existing at the time of the CBM development, that experiences a twenty percent (20%) or greater reduction of capacity to deliver water in quantity and/or impairs the quality below Wyoming DEQ standards.

**“Strat Test”** - Any test well that is drilled with the purpose of obtaining geologic information that is not completed for production and is subsequently plugged and abandoned. “Strat Test” may produce water and/or gas and water from the aquifer for a period exceeding thirty (30) days.

**AGREED:**

1. Upon the establishment of a COI, the Operator, at its sole cost and risk, will measure, or cause to be measured, the static water level, productive capacity and water quality ("the baseline measurement") and water quality of all properly permitted water wells in addition to any other water wells within the “COI” and will attempt to determine the depth and configuration of these wells through consultation with the Owner and from the records of the State Engineer of the State of Wyoming. Upon request, Owner shall provide Operator with the location of all wells and springs within one mile of Operator's drilling operations. Tests shall be performed in according to the standard and customary test procedures for testing of this kind. The Operator shall also test for the presence of methane in the water wells and shall provide to Owner a chemical analysis of each well or spring, which analysis shall measure or calculate through normally accepted techniques, at a minimum, the following constituents:

- pH
- Hardness (ppm and grains/gallon)
- Conductivity (mmhos/cm)
- Sodium Absorption Ratio
- Adjusted Sodium Absorption Ratio
- Cation/Anion Ratio
- PPM of Calcium, Magnesium, Potassium, Sodium, Iron
- Total Alkalinity (CaCO<sub>3</sub>)
- Carbonate
- Bicarbonate
- Hydroxide
- Chloride
- Sulfur as SO<sub>4</sub>
- Salt Concentration (TDS)
- Boron
- Nitrate
- Nitrite
- Ammonia Nitrogen
- Phosphorus
- Methane

2. Landowner shall, upon reasonable notice, allow the testing of identified permitted wells and water wells within the "COI" including a static water level test which may require the cessation of withdrawals of water from the well for a period not to exceed twenty-four hours.

3. Producer shall establish a continuing water well monitoring program the intent of which is to enable the Producer to identify changes in the capacity and quality of the Landowner's identified permitted wells and water wells within the "COI". The Landowner shall allow continued periodic testing of the identified permitted wells and water wells within the "COI" for these purposes. Producer shall, upon request of the Landowner, provide all test data, both "baseline data" and monitoring data to the Landowner. Upon the request of Landowner, Producer shall designate a producing well as a well for additional baseline data regarding water quality and water production at the outfall.

4. If an identified permitted well or a water well within the "COI" becomes an "impaired water well", as defined herein, Landowner shall first take reasonable steps to verify that the impairment is not due to mechanical, electrical, down hole integrity, or pump problems and, if none of these problems appear to be the cause of the impairment, Landowner shall notify Producer of the impairment. Operator/Producer shall reimburse Landowner for expenses incurred in determination that none of those problems caused the impairment. Notice shall be made by phone and by writing, delivered by hand or by registered mail to the Producer at the above address.

5. Within thirty (30) days of receipt of notice of impairment Producer shall restore the Landowner's access to water of sufficient quantity and quality to offset such impairment by re-configuring, redrilling the well, the drilling of a new well or by other means. It is recognized that additional power costs may be associated with any reconfiguration of an impaired water well. Landowner shall be reasonably compensated for any additional power costs associated with restoration of an impaired well or production from a new, replacement well. The specific site of the well or water access may be changed by mutual agreement of Producer and Landowner.

6. Producer agrees that upon notice of impairment and during the curative period, to provide and make available water for domestic and livestock usage in quantity, and of a safe, potable quality and location required for the maintenance of normal and customary domestic, grazing and livestock operations. Producer shall develop emergency procedures for immediate delivery of water to any such effected Landowner within twenty-four (24) hours of notice. Water shall be provided on an emergency basis until the quantity and quality of water shall be fully restored to Landowner. Producer shall notify Landowner of the Producer's representative appointed to handle such matters, providing a local contact and a twenty-four (24) hour emergency contact. Landowner shall make a good faith effort to inform Producer, by phone, fax or

other expedient method of communicating of any impending loss or damage to livestock, allowing Producer a reasonable opportunity to mitigate such damage.

7. At any time that the Producer undertakes activities to enhance Landowner's water well capacity or quality, or to restore Landowner's impaired water well capacity or quality, and should such activities require permits from regulatory agencies or permissions from third parties for surface entry, landowner shall aid and assist Producer in the obtaining of permits and permissions necessary to conduct the operations. All costs of the operations, including fees for obtaining permits and permissions, shall be borne by the Producer.

8. In the event that the interpretation or enforcement of this agreement results in legal action, the costs of such action, including reasonable attorney's fees, shall be borne by the individual parties, except in the event that the Landowner is the Prevailing party, in which case the Producer shall bear the costs.

9. The terms and provisions contained herein shall run with the land and shall be binding on the heirs, successors and assigns of Landowner and Producer. This agreement shall terminate upon the expiration of the last Oil and Gas Lease or the plugging and abandonment of the last CBM well to which this agreement applies, whichever is the later date.

10. Producer shall be responsible for any damages to water wells or water delivery systems proximately caused by reason of Producer's activities on Landowner's lands, for a period of one year (to eighteen months) after the cessation of Producer's activities.

11. This Agreement may be executed counterparts, each of which shall be considered an original.

**PRODUCER:**

**AGREED AND ACCEPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

The undersigned hereby certifies that he has full power and authority to execute this agreement on behalf of Producer. In the event that it is determined that the undersigned did not have such authority then the undersigned shall be personally liable for all payments, damages, covenants and agreements contained herein.

By: \_\_\_\_\_

**LANDOWNER:**

**AGREED AND ACCEPTED** this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.