



State of Kansas, Coffey County, ss
This Instrument was filed for record on
the 7 day of August A.D. 2002
at 11:10 o'clock A. M and duly recorded
in Book 36 of O&G at page 493-495
Luann P. Birk
REGISTER OF DEEDS
By _____ Deputy
Fee \$16.00

PRODUCERS 88-PAID UP
Kansas CBM Form
Woodson (GET)

OIL AND GAS LEASE
WLS 3886

This Agreement, made and entered into this 13th day of June, 2002, by and between
KAREN A. BERNS and JOSEPH N. BERNS, her husband,

whose address is 640 North Rock Road, No. 5, Wichita, KS 67206-1746
hereinafter called Lessor (whether one or more) and M & S Methane Development LLC
whose address is Suite 1150, 410 17th Street, Denver, CO 80202 hereinafter called Lessee:

WITNESSETH, That the Lessor, for and in consideration of TEN AND MORE (\$10.00+) DOLLARS cash in hand paid, the receipt and sufficiency are hereby acknowledged, and the covenants and agreements hereinafter contained, has granted, demised, leased and let, and by these presents does grant, demise, lease and let exclusively unto the said Lessee, the land hereinafter described, with the exclusive right for the purpose of exploring by geophysical and other methods, and operating for and producing therefrom oil, gas, and other hydrocarbons and all other minerals or substances, whether similar or dissimilar, including, but not limited to, coalbed methane, helium, nitrogen, carbon dioxide, and all substances produced in association therewith from coal bearing formations or elsewhere, that may be produced from any well drilled under the terms of this lease, with rights of way and easements for laying pipe lines and servicing or drilling other wells in the vicinity of said lands, and erection of structures thereon to produce, save and take care of said products, including the right to inject salt water and production fluids into strata below those providing fresh water from wells located on the herein leased lands or on adjacent lands, all that certain tract of land, together with any reversionary, remaindermen and executory rights therein, situated in Coffey County, State of Kansas described as follows, to-wit:

TOWNSHIP 21 SOUTH – RANGE 13 EAST

Fractional Section 1: The South Half (S/2)

TOWNSHIP 21 SOUTH – RANGE 14 EAST

Fractional Section 6: The Northwest Quarter (NW/4)

And containing 528 acres, more or less, together with all strips or parcels of land (not, however, to be construed to include parcels comprising a regular 40-acre legal subdivision or lot of approximately corresponding size) adjoining or contiguous to the above described land and owned or claimed by Lessor.

1. It is agreed that this lease shall remain in force for a term of Five (5) years from this date and as long thereafter as oil or gas of whatsoever nature or kind is produced from said leased premises or on acreage pooled therewith, or drilling operations are continued as hereinafter provided. If, at the expiration of the primary term of this lease, oil or gas is not being produced on the leased premises or on acreage pooled therewith but Lessee is then engaged in drilling or re-working operations thereon, then this lease shall continue in force so long as operations are being continuously prosecuted on the leased premises or on acreage pooled therewith; and operations shall be considered to be continuously prosecuted if not more than ninety (90) days shall elapse between the completion or abandonment of one well and the beginning of operations for the drilling of a subsequent well. If after discovery of oil or gas on said land or on acreage pooled therewith, the production thereof should cease from any cause after the primary term, this lease shall not terminate if Lessee commences additional drilling or re-working operations within ninety (90) days from date of cessation of production or from date of completion of dry hole. If oil or gas shall be discovered and produced as a result of such operations at or after the expiration of the primary term of this lease, this lease shall continue in force so long as oil or gas is produced from the leased premises or on acreage pooled therewith.

2. This is a PAID-UP LEASE. In consideration of the down cash payment, Lessor agrees that Lessee shall not be obligated, except as otherwise provided herein, to commence or continue any operations during the primary term. Lessee may at any time or times during or after the primary term surrender this lease as to all or any portion of said land and as to any strata or stratum by delivering to Lessor or by filing for record a release or releases, and be relieved of all obligation thereafter accruing as to the acreage surrendered.

3. In consideration of the premises the said Lessee covenants and agrees:

- 1st. To deliver to the credit of Lessor, free of cost, in the pipe line to which Lessee may connect wells on said land, the equal one-eighth (1/8) part of all oil produced and saved from the leased premises.
- 2nd. To pay Lessor one-eighth (1/8) of the net proceeds at the well from proceeds received for gas sold from each well where gas only is found, or the market value at the well of such gas used off the premises.
- 3rd. To pay Lessor one-eighth (1/8) of the market value at the well for gas produced from any oil well and used off the premises, or for the manufacture of casing-head gasoline or dry commercial gas.
- 4th. To pay Lessor one-eighth (1/8) of the proceeds received from the sale of any substance covered by this lease, other than oil and gas and the products thereof, which Lessee may elect to produce, save, and market from the leased premises.

4. If any well capable of producing oil and/or gas, whether or not in paying quantities, located on said land or on lands pooled or unitized with all or part of said land, is at any time shut in and production therefrom is not sold or used off the premises, nevertheless such shut-in well shall be considered a well producing oil and/or gas and this lease will continue in force while such well is shut in, notwithstanding expiration of the primary term. In lieu of any implied covenant to market, Lessee expressly agrees to market oil and/or gas produced from Lessee's well located on said lands or on lands pooled or unitized therewith, but Lessee does not covenant or agree to reinject or recycle gas, to market such oil and/or gas under terms, conditions or circumstances which in Lessee's judgement are uneconomic or otherwise unsatisfactory or to bear more than Lessee's revenue interest share of the cost and expense incurred to make the production marketable. If all wells on said land, or on lands pooled or unitized with all or part of said land, are shut in, then within 60 days after expiration of each period of one year in length (annual period) during which all such wells are shut in, Lessee shall be obligated to pay or tender to Lessor at above address via U.S. Mail on or before said date, as royalty, the sum of \$1.00 multiplied by the number of acres subject to this lease, provided, however, that if production from a well or wells located on said land or on lands pooled or unitized therewith is sold or used off the premises before the end of any such period, or if at the end of any such annual period this lease is being maintained in force and effect other than solely by reason of the shut-in well(s), Lessee shall not be obligated to pay or tender said sum of money for that annual period.
5. If said Lessor owns a less interest in the above described land than the entire and undivided fee simple estate therein, then the royalties (including any shut-in gas royalty) herein provided for shall be paid the Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee.
6. Lessee shall have the right to use, free of cost, gas, oil and water produced on said land for Lessee's operation thereon, except water from the wells of Lessor.
7. When requested by Lessor, Lessee shall bury Lessee's pipe line below plow depth.
8. No well shall be drilled nearer than 200 feet to the house or barn now on said premises without written consent of Lessor.
9. Lessee shall pay for damages caused by Lessee's operations to growing crops on said land.
10. Lessee shall have the right at any time to remove all machinery and fixtures placed on said premises, including the right to draw and remove casing.
11. The rights of Lessor and Lessee hereunder may be assigned in whole or part. No change in ownership of Lessor's interest (by assignment or otherwise) shall be binding on Lessee until Lessee has been furnished with notice, consisting of certified copies of all recorded instruments or documents and other information necessary to establish a complete chain of record title from Lessor, and then only with respect to payments thereafter made. No other kind of notice, whether actual or constructive, shall be binding on Lessee. No present or future division of Lessor's ownership as to different portions or parcels of said land shall operate to enlarge the obligations or diminish the rights of Lessee, and all Lessee's operations may be conducted without regard to any such division. If all or any part of this lease is assigned, no leasehold owner shall be liable for any act or omission of any other leasehold owner.
12. Lessee, at its option, is hereby given the right and power at any time and from time to time as a recurring right, either before or after production, as to all or any part of the land described herein and as to any one or more of the formations hereunder, to pool or unitize the leasehold estate and the mineral estate covered by this lease with other land, lease or leases in the immediate vicinity for the production of oil and gas, or separately for the production of either, when in Lessee's judgment it is necessary or advisable to do so, and irrespective of whether authority similar to this exists with respect to such other land, lease or leases. Likewise, units previously formed to include formations not producing oil or gas, may be reformed to exclude such non-producing formations. The forming or reforming of any unit shall be accomplished by Lessee executing and filing of record a declaration of such unitization or reformation, which declaration shall describe the unit. Any unit may include land upon which a well has theretofore been completed or upon which operations for drilling have theretofore been commenced. Production, drilling or re-working operations or a well shut in for want of a market anywhere on a unit which includes all or a part of this lease shall be treated as if it were production, drilling, or re-working operations or a well shut in for want of a market under this lease. In lieu of the royalties elsewhere herein specified, including shut-in gas royalties, Lessor shall receive on production from the unit so pooled royalties only on the portion of such production allocated to this lease; such allocation shall be that proportion of the unit production that the total number of surface acres covered by this lease and included in the unit bears to the total number of surface acres in such unit. In addition to the foregoing, Lessee shall have the right to unitize, pool, or combine all or any part of the above described lands as to one or more of the formations thereunder with other lands in the same general area by entering into a cooperative or unit plan of development or operation approved by any governmental authority and, from time to time, with like approval, to modify, change or terminate any such plan or agreement and, in such event, the terms, conditions and provisions of this lease shall be deemed modified to conform to the terms, conditions, and provisions of such approved cooperative or unit plan of development or operation and, particularly, all drilling and development requirements of this lease, express or implied, shall be satisfied by compliance with the drilling and development requirements of such plan or agreement, and this lease shall not terminate or expire during the life of such plan or agreement. In the event that said above described lands or any part thereof, shall hereafter be operated under any such cooperative or unit plan of development or operation whereby the production therefrom is allocated to different portions of the land covered by said plan, then the production allocated to any particular tract of land shall, for the purpose of computing the royalties to be paid hereunder to Lessor, be regarded as having been produced from the particular tract of land to which it is allocated and not to any other tract of land; and the royalty payments to be made hereunder to Lessor shall be based upon production only as so allocated. Lessor shall formally express Lessor's consent to any cooperative or unit plan of development or operation adopted by Lessee and approved by any governmental agency by executing the same upon request of Lessee.
13. For purposes of promoting the development of shallow gas and associated hydrocarbons produced in conjunction therewith, Lessee is granted the power to pool and unitize this lease into a development pooled unit of up to 5,760 acres. This grant shall only be effective if Lessee drills or has drilled no later than one (1) year from declaration of pooling and in no event later than one (1) year after the expiration of the primary term hereof, at least two wells within the pooled unit. This special pooling grant is only effective as to formations hereby defined as geologic formations located from the surface of the earth to one hundred feet (100') below the top of the Mississippian Carbonate formation. To utilize this pooling grant Lessee shall file with the Records Office of the relevant county or counties a declaration of the exact description of the unit formed pursuant to this clause. Subject to fulfilling the above described drilling requirements, such declaration is all that is required to establish the pooled unit. If such gas well or wells as contemplated by this clause shall not be drilled on the premises herein leased it shall nevertheless be deemed to be upon the leased premises within the meaning of all covenants, expressed or implied, in this lease. Lessor shall receive on hydrocarbon production thus pooled such proportion of the royalty stipulation herein reserved as the amount of Lessor's acreage placed in the unit bears to the total acreage so pooled in the particular declared unit, regardless of which wells the production actually comes from. After one such unit has been declared, Lessee may add other lands to such unit up to the limit of 5,760 acres.
14. All express or implied covenants of this lease shall be subject to all Federal and State Laws, Executive Orders, Rules or Regulations, and this lease shall not be terminated, in whole or in part, nor Lessee held liable in damages, for failure to comply therewith, if compliance is prevented by, or if such failure is the result of, any such Law, Order, Rule or Regulation.
15. Lessor hereby warrants and agrees to defend the title to the lands herein described, and agrees that the Lessee shall have the right at any time to redeem for Lessor, by payment, any mortgages, taxes or other liens on the above described lands, in the event of default

of payment by Lessor and be subrogated to the rights of the holder thereof, and Lessor hereby agrees that any such payments made by Lessee for the Lessor may be deducted from any amounts of money which may become due the Lessor under the terms of this lease. The undersigned Lessors, for themselves and their heirs, successors and assigns, hereby surrender and release all right of dower and homestead in the premises described herein, insofar as said right of dower and homestead may in any way affect the purposes for which this lease is made, as recited herein.

16. Should any one or more of the parties hereinabove named as Lessor fail to execute this Lease, it shall nevertheless be binding upon all such parties who do execute it as Lessor. The word "Lessor", as used in this lease, shall mean any one or more or all of the parties who execute this lease as Lessor. All the provisions of this lease shall be binding on the heirs, successors and assigns of Lessor and Lessee.

17. Lessor and Lessee hereby made, as express provisions of this lease, the following: It is agreed that this lease shall remain in force for a term of Five (5) year(s) from the date, and as long thereafter as oil or gas, or either of them, is produced from said land by the Lessee, its successors and assigns. Lessee has the option to extend this lease for an additional term of Five (5) year(s) from the expiration of the primary term of this lease, and as long thereafter as oil or gas, or either of them, is produced from said land by the Lessee, its successors and assigns, said renewal to be under the same terms and conditions as contained in this lease. Lessee, its successors or assigns, may exercise this option to renew if on or before the expiration date of the primary term of this lease, Lessee pays or tenders to the Lessor or to the Lessor's credit, the sum of Ten (\$10.00) dollars per net mineral acre.

18. Bonuses may be paid by check or draft and may be remitted by mail. Mailing of bonuses on or before the bonus paying date shall be deemed a timely tender thereof and shall preclude termination of this lease.

IN WITNESS WHEREOF, this instrument is executed as of the date first above written.

Joseph N. Berns
JOSEPH N. BERNS
SS/Tax ID # [REDACTED]

Karen A. Berns
KAREN A. BERNS
SS/Tax ID # [REDACTED]

State of Kansas

County of Sedgewick

ACKNOWLEDGEMENT-INDIVIDUAL

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 13 day of June 2002, Personally appeared Joseph N. Berns & Karen A. Berns to me known to be the person(s) described in and that executed the foregoing instrument and acknowledged to me that each executed the same in his (her,their) free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

MY COMMISSION EXPIRES:

 KATHERINE J. HARRIS
Notary Public, State of Kansas
My Appt. Expires 11/19/2002

Katherine J. Harris
KATHERINE J. HARRIS
Notary Public:
Address: 7800 E Central Wichita KS

OTHER PROVISIONS

- 19. Lessee and Lessor agree that any access roads, well sites, or pipelines to be constructed under the terms of this lease shall be done in consultation with the Lessor, provided however, the Lessor shall not attempt to prohibit said construction or make unreasonable requests of the Lessee.
- 20. Lessee agrees that as soon as is reasonably possible, following completion of its operations, Lessee shall restore its well site, as nearly as possible, to its original condition and land contour.
- 21. Lessee agrees to be a prudent operator and will keep all surface disturbances to the minimum area necessary to conduct its operations.
- 22. Lessee shall indemnify and hold Lessor harmless from any and all liability, liens, claims and environmental liability arising out of Lessee's operations under the terms of this lease.
- 23. Pursuant to paragraph #9 of this lease, Lessee agrees that within thirty (30) days of commencement of operations on the herein described lands, Lessee agrees to pay Lessor a one time damage payment of \$500.00 for each acre of actual damage caused to Lessor's property as a direct result of Lessee's operations under the terms of this lease.
- 24. Anything contained herein to the contrary notwithstanding, paragraphs #12 and #13 herein shall pertain only to gas and associated gaseous hydrocarbons, including methane, coalseam gas and coalbed gas, produced and saved from the herein described lands under the terms of this lease. Said paragraphs #12 and #13 shall not pertain to oil produced and saved from the herein described lands under the terms of this lease. Oil produced and saved from the herein described lands under the terms of this lease shall comply with the rules and regulations of the Kansas Corporation Commission.
- 25. Production from or operations on a pooled unit or units embracing a portion or portions of the leased premises will maintain this lease in force only as to the acreage embraced in said unit or units. This lease may be maintained in effect as to the remainder of the leased premises in accordance with the other provisions of this lease.
- 26. The first sentence of Paragraph #1, herein, is hereby amended to read as follows: "It is agreed that this lease shall remain in force for a term of five (5) years from this date and as long thereafter as oil or gas of whatsoever nature or kind is produced in paying quantities from said leased premises or on acreage pooled therewith, or drilling operations are continued as hereinafter provided."