

## MEMORANDUM OF SURFACE USE AND DAMAGE AGREEMENT

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Take notice that **Vista Alta, LLC**, a Wyoming limited liability company, of P.O. Box #114, Rock Springs, Wyoming 82902 ("Owner") and **Pennaco Energy, Inc.**, of 3601 Southern Drive, Gillette, Wyoming 82718-9107 ("Operator") have entered into a Surface Use Agreement dated August 22, 2007 covering the following real property located in Sheridan County, Wyoming:

See Exhibit A attached hereto and incorporated herein (the "Lands").

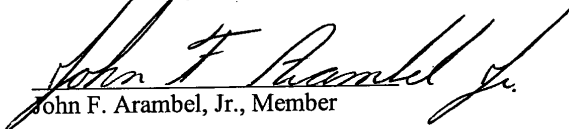
Operator owns oil and gas leases which cover portions of the Lands. Pursuant to the Agreement, Owner and Operator have agreed upon, among other things, the damage payments to be made by Operator to Owner arising from Operator's use of the surface of the Lands, and the location of roads, pipelines, power lines and surface equipment related to Operator's oil and gas operations.

This Memorandum is executed by Owner and Operator to serve as notice of the existence of the agreement. Any person desiring to deal with the lands should contact Owner or Operator as to the terms of the Agreement.

DATED this 28<sup>th</sup> day of September, 2007.

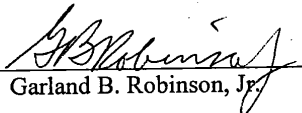
### OWNER:

VISTA ALTA, LLC

  
John F. Arambel, Jr., Member

### OPERATOR:

PENNACO ENERGY, INC.

By:   
Garland B. Robinson, Jr.

Title: Attorney-in-Fact

## EXHIBIT A

State of Wyoming, County of Sheridan

Township 55 North, Range 83 West, 6th P.M.

Section 15:  $W\frac{1}{2}$ ,  $W\frac{1}{2}SE\frac{1}{4}$

Section 16: A tract of land located in the  $E\frac{1}{2}$  of Section 16, said land being more particularly described as follows:

Beginning at the southeast corner of said Section 16 (monumented with a  $1\frac{1}{2}$ " plastic cap per PLS 520); thence  $N12^{\circ}56'39''W$ , 908.49 feet along a fence line and the south line of a tract of land described in Book 346 of Deeds, Page 492 to a  $1\frac{1}{2}$ " aluminum cap per PLS 2615; thence  $S88^{\circ}39'03''W$ , 1,122.24 feet along said fence line and said south line to a  $1\frac{1}{4}$ " aluminum cap per PLS 2615; thence  $N54^{\circ}40'21''W$ , 719.42 feet along said fence line and said south line to a  $1\frac{1}{2}$ " aluminum cap per PLS 2615; thence  $N88^{\circ}12'41''W$ , 656.49 feet along said fence line and said south line to a  $1\frac{1}{2}$ " aluminum cap per PLS 2615; thence  $N88^{\circ}20'22''W$ , 88.90 feet along said fence line and said south line to a 2" aluminum cap per PLS 2615, said point lying on the west line of said  $E\frac{1}{2}$ ; thence  $N00^{\circ}41'43''W$ , 34.77 feet along said west line to the northwest corner of the  $S\frac{1}{2}SE\frac{1}{4}$  of said Section 16 (monumented with a 2" aluminum cap per PLS 6594); thence  $N00^{\circ}37'39''W$ , 2,419.54 feet along said west line to a 2" aluminum cap per PLS 2615; thence  $N58^{\circ}22'47''E$ , 378.52 feet to a 2" aluminum cap per PLS 2615; thence  $N00^{\circ}54'13''E$ , 1,268.53 feet to a 2" aluminum cap per PLS 2615, said point lying on the north line of said Section 16; thence  $N89^{\circ}45'43''E$ , 2232.99 feet along said north line to the northeast corner of said Section 16 (monumented with a  $3\frac{1}{4}$ " aluminum cap per PLS 6594); thence  $S01^{\circ}11'41''E$ , 5229.44 feet along the east line of said Section 16 to the POINT OF BEGINNING, containing 233.5 acres, more or less.

A tract of land located in the South Half of the Southeast Quarter ( $S\frac{1}{2}SE\frac{1}{4}$ ) and the South Half of the Southwest Quarter ( $S\frac{1}{2}SW\frac{1}{2}$ ) of Section 16, the South Half of the Southeast Quarter ( $S\frac{1}{2}SE\frac{1}{4}$ ) of Section 17, the Northeast Quarter of the Northeast Quarter ( $NE\frac{1}{4}NE\frac{1}{4}$ ) of Section 20, and the North Half ( $N\frac{1}{2}$ ) of Section 21, all in Township 55 North, Range 83 West, of the Sixth Principal Meridian, Sheridan County, Wyoming, being more particularly described as follows:

Beginning at a point located N  $61^{\circ}32'12''$ W, 2809.82 feet from the Northeast Corner of said Section 20, said point being located on the northeasterly right of way line of U.S. Highway No. 14 and also on the north line of the  $S\frac{1}{2}SE\frac{1}{4}$  of said Section 17; thence along said north line S  $89^{\circ}43'40''$ E, 2454.51 feet to the northwest corner of the  $S\frac{1}{2}SW\frac{1}{4}$  of said Section 16; thence along the north line of the  $S\frac{1}{2}SW\frac{1}{4}$  of said Section 16; S  $89^{\circ}26'55''$ E, 2642.32 feet to the Northeast Corner of said  $S\frac{1}{2}SW\frac{1}{4}$ ; thence S  $66^{\circ}54'08''$ E, 96.08 feet; thence along a fenceline S  $88^{\circ}16'45''$ E, 656.22 feet; thence along a fenceline S  $54^{\circ}46'04''$ E, 718.38 feet; thence along a fenceline N  $88^{\circ}44'04''$ E, 1122.88 feet; thence along a fenceline S  $12^{\circ}54'23''$ E, 908.31 feet to the Northeast Corner of said Section 21; thence along the east line of said Section 21, S  $1^{\circ}06'23''$ W, 2620.30 feet to the East Quarter Corner of said Section 21; thence along the south line of the  $N\frac{1}{2}$  of said Section 21, N  $89^{\circ}57'25''$ W, 4354.42 feet; thence N  $1^{\circ}56'40''$ W, 2482.74 feet; thence S  $89^{\circ}28'59''$ W, 2097.93 feet to a point on the west line of the  $NE\frac{1}{4}NE\frac{1}{4}$  of said Section 20; thence along said west line N  $0^{\circ}00'09''$ W, 189.13 feet to the Southeast Corner of the  $SW\frac{1}{4}SE\frac{1}{4}$  of said Section 17; thence along the south line of said  $SW\frac{1}{4}SE\frac{1}{4}$ , N  $89^{\circ}47'59''$ W, 161.19 feet to a point on the northeasterly right of way line of U.S. Highway No. 14; thence along said right of way on a curve to the left having a radius of 4679.58 feet, a central angle of  $2^{\circ}43'00''$ , and arc length of 269.29 feet, with chord bearing and distance N  $38^{\circ}07'58''$ W, 269.26 feet; thence continuing along said right of way N  $36^{\circ}46'29''$ W, 1400.92 feet to the point of beginning, said tract containing 476.026 acres, more or less.

A tract of land located in the East Half of the Northeast Quarter ( $E\frac{1}{2}NE\frac{1}{4}$ ) of Section 20 and the West Half of the Northwest Quarter ( $W\frac{1}{2}NW\frac{1}{4}$ ) of Section 21, Township 55 North, Range 83 West, of the Sixth Principal Meridian, Sheridan County, Wyoming, being more particularly described as follows:

Beginning at a point located S  $81^{\circ}56'38''$ W, 1317.08 feet from the Northeast Corner of said Section 20, said point being on the northeasterly right of way line of U.S. Highway No. 14; thence N  $89^{\circ}28'59''$ E, 2097.93 feet; thence S  $1^{\circ}56'40''$ E, 2482.74 feet to a point on the southerly line of the Northwest Quarter of said Section 21; thence along said southerly line N  $89^{\circ}57'25''$ W, 493.28 feet to a point on the easterly right of way line of U.S. Highway No. 14; thence along said right of way N  $3^{\circ}19'55''$ W, 201.98 feet; thence continuing along said right of way along a curve to the left having a radius of 1004.93 feet, a central angle of  $56^{\circ}53'53''$ , and arc length of 997.95 feet, with chord bearing and distance N  $31^{\circ}46'49''$ W, 957.45 feet; thence continuing along said right of way N  $60^{\circ}13'46''$ W, 304.55 feet; thence continuing along said right of way along a curve to the right having a radius of 1095.92 feet, a central angle of  $27^{\circ}37'32''$ , and arc length of 528.40 feet, with chord bearing and distance N  $46^{\circ}25'00''$ W, 523.30 feet; thence continuing along said right of way N  $32^{\circ}36'14''$ W, 192.70 feet; thence continuing along said right of way along a curve to the right having a radius of 1382.39 feet, a central angle of  $12^{\circ}19'45''$ , and arc length of 297.47 feet, with chord bearing and distance N  $26^{\circ}26'22''$ W, 296.89 feet; thence continuing along said right of way N  $20^{\circ}16'29''$ W, 41.58 feet; thence continuing along said right of way along a curve to the left having a radius of 1482.39 feet, a central angle of  $20^{\circ}19'35''$ , and arc length of 525.90 feet, with chord bearing and distance N  $30^{\circ}26'17''$ W, 523.15 feet; thence continuing along said right of way N  $40^{\circ}36'05''$ W, 21.41 feet to the point of beginning, said tract containing 70.000 acres, more or less.