



January 30, 2018

Crossroads West Phoenix LLC
515 Congress Avenue, Suite 2450
Austin, Texas 78701

Attention: Mr. William Osborn

Re: Moon Shot #1 Surface Agreement
Chaves County, New Mexico

Dear Mr. Osborn:

Pursuant to the Oil and Gas Surface Use and Covenants Agreement between Crossroads West Phoenix LLC and Marshall & Winston, Inc., enclosed please find a check in the amount of \$10,000.00. Also enclosed, please two (2) sets of the Agreement executed on behalf of Marshall & Winston, Inc. We ask that you execute one (1) copy and return it to us for our file completion.

Should you require anything further, please do not hesitate to contact us.

Very truly yours,

A handwritten signature in blue ink that reads 'Melanie Aiguier'. The signature is written in a cursive, flowing style.

Melanie Aiguier
Land Secretary

MA

Enclosures

MARSHALL & WINSTON INC.
POST OFFICE BOX 50880 MIDLAND, TX 79710 (432)684-6373

INVOICE #	DATE	VOUCHER	INVOICE AMOUNT	DISCOUNT TAKEN	NET AMOUNT
MOONSHOT #1	01/19/2018	981543	10,000.00	0.00	10,000.00

VENDOR: CR443 CHECK NUMBER: 157117 DATE: 01/26/2018 AMOUNT: \$10,000.00

CONTROL 089922 PLEASE DETACH THIS REMITTANCE ADVICE BEFORE DEPOSITING CHECK

THE FRONT OF THIS DOCUMENT HAS A VOID FEATURE

MARSHALL & WINSTON INC.
POST OFFICE BOX 50880
MIDLAND, TX 79710
(432)684-6373

WELLS FARGO

MARSHALL & WINSTON INC.

CHECK NUMBER

157117

DATE

AMOUNT

01/26/2018

*****10,000 Dollars and 00 Cents

*****10,000.00

PAY TO THE ORDER OF CROSSROADS WEST PHOENIX LLC
c/o WILLIAM OSBORN
ATTORNEY-IN-FACT
515 CONGRESS AVENUE, SUITE 2450
AUSTIN, TX 78701

Susan Hphy

VOID IF NOT CASHED WITHIN 90 DAYS

⑈ 157117⑈ ⑆ 111900659⑆ ⑈ 0500807028⑈

OIL AND GAS SURFACE USE COVENANTS

STATE OF NEW MEXICO §
 §
COUNTY OF CHAVES §

Whereas:

Crossroads West Phoenix LLC (“Owner” or “Landowner”) owns a surface tract described below in Chaves County, New Mexico on which Marshall & Winston Inc. (“Operator”) plans to conduct oil and gas exploration, drilling and production operations for the proposed Moonshot Number 1 well pursuant to the oil and gas leases covering the minerals;

The surface owner wishes to provide for the protection of residential, scenic, recreational and environmental values within the surface tract; and

Both the Owner and the Operator believe that their objectives can best be accomplished by an agreement as to how Operator is to conduct its operations;

Now therefore:

For a cash consideration of \$10,000.00 covering location fee paid by Owner to Operator, which has been received, and in further consideration of the undertakings of the parties herein, which consideration is acknowledged by both parties to be both valuable and adequate, it is agreed that Operations on the Surface Tract, as these terms are defined below, shall be conducted according to the provisions of these OIL AND GAS SURFACE USE COVENANTS.

1. **Definitions.** For purposes of these Covenants, certain terms shall be defined as follows:
 - a. **Landowner** means Crossroads West Phoenix LLC c/o William Osborn, Attorney-in-Fact, 515 Congress Avenue Suite 2450 Austin Texas 78701.
 - b. **Operator** means Marshall & Winston Inc. 6 Desta Drive Suite 3100 Midland Texas 79705.
 - c. **Covenants** means these Oil and Gas Surface Use Covenants.
 - d. **Surface Tract** is described as follows:
 South ½ Section 26, T-7-S, R-28-E
 South ½ of South ½ of South ½ of North ½ Section 26, T-7-S, R-28E
 West ½ of the Southwest ¼ Section 25, T-7-S, R-28-E
 Chaves County, New Mexico.

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- e. **Oil and Gas Leases** means those instruments or memoranda thereof recorded at Book 761, Page 1707, Chaves County Records, Chaves County New Mexico.
- f. **Operations** means the physical activities of Operator on the Surface Tract pursuant to the Oil and Gas Leases and these Covenants, including, but not limited to, exploring for, drilling, testing, completing, equipping, and producing oil and/or gas, constructing and removing surface and subsurface facilities, and plugging of wells and restoration of the surface.
- g. **Drilling Location** means an up to five (5) acre area around a well which Operator has a right to use while the well is being drilled, this area to include all such reserve pits as needed by Operator.
- h. **Well Location** means an up to two (2) acre area which Operator has the right to use around a producing oil and/or gas well.
- i. **Operator Constructed Facilities** means any road, pipeline, oil, gas or water well, Drilling Location, Well Location, pit, pond, non-mobile equipment, or other item constructed or placed by Operator on the Surface Tract.
- j. **Operator Personnel** means persons coming onto the Surface Tract in connection with Operations.
- k. **Operator Emergency Response Line** means a telephone line, manned at all times during regular weekly business hours by Operator's employees, which is available at all times during such hours for reporting emergency situations with Operations or Operator Constructed Facilities. The after hours telephone line is manned by a contract answering service or by Todd Passmore.

2. **Term.** These Covenants shall remain in full force and effect for so long as the Oil and Gas Leases remain effective as to any portion of the lands covered thereby.

3. **Surface Use.** Operator agrees to use as little of the surface of the Surface Tract as is reasonably necessary in connection with Operations pursuant to the Oil and Gas Leases, upon the terms and conditions as set out in these Covenants, and Landowners do hereby release and forever discharge Operator and its employees, officers, agents, associates, partners, affiliated companies, independent contractors, successors and assigns from any and all debts, claims, demands, damages and causes of action whatsoever which may have arisen or may arise, heretofore or hereafter asserted by Landowners on account of any and all damages and injury to the Surface Tract, including but not limited to damage to the crops, trees, fences and/or pasture lands, which damages and injury may have been caused by, or may hereafter result from Operations but does not include any extraordinary occurrences such as fires, blowouts or spills, such damages for extraordinary occurrences to be paid separate and apart herefrom.

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4. **Stewardship by Operator.** Operations shall be conducted in compliance with the applicable rules and regulations of the New Mexico Oil Conservation Division. Operator shall keep all of its equipment in neat and orderly condition and promptly dispose of all trash and debris and of all cut brush and timber resulting from Operations. Tanks and equipment will be kept painted and presentable. All of Operator's equipment and machinery which is installed on the Surface Tract on a permanent or semi-permanent basis which makes noise audible from a distance while operating shall be equipped with "hospital type" mufflers or other sound suppression devices. Operator shall allow access to the Surface Tract to only such Operator Personnel as are reasonably necessary for Operations on the Surface Tract, and Operator shall not allow access to the Surface Tract by any person, entity or company which has not been directly employed by or contracted by Operator to perform a service thereon in connection with Operations. While on the Surface Tract, Operator Personnel shall not hunt, fish, search for or gather relics, antiquities or hard minerals, or carry firearms or fishing equipment, violate any game laws, or consume alcoholic beverages or any substance prohibited by law; if any Operator Personnel violates any of the above regulations, the violator may be escorted off of the Surface Tract by Landowners, will be a trespasser upon failure to leave as instructed; and will also be a trespasser if subsequently found on the Surface Tract. Operator shall always promptly remove from the Surface Tract all equipment for which there is not a reasonably current need of use.

5. **Operator Emergency Response Line.** The Operator Emergency Response Line is provided so that Landowners will have an effective method to bring Operator's attention to and to report any observed mechanical failure in connection with any Operator Constructed Facility that is causing (a) substantially increased noise levels, (b) danger of damage to persons or property on the Surface Tract or in its vicinity, or (c) uncontrolled discharge of drilling fluids, oil or natural gas. Operator's employee manning the Operator Emergency Response Line shall be instructed as to the identity of Landowners and in what county the Surface Tract is located and to route their call, if such is made, to an appropriate member of Operator's technical personnel who will evaluate the situation described and take prompt action to address it if the situation is indeed in need of correction. Landowners understand that the Operator Emergency Response Line may be used in connection with other business matters by Operator and that they will need to inform the Operator employee manning the telephone that this is an Operator Emergency Response Line call and identify the county in which the Surface Tract is located. Landowners agree not to use the Operator Emergency Response Line procedure for complaints about Operations or Operator Constructed Facilities in their normal condition and that excessive or inappropriate use of the Operator Emergency Response Line may lead to their calls being treated as routine rather than as an emergency. The number for the Operator Emergency Response Line during regular weekly business hours is (432) 684-6373. The after hours and holidays number is (432) 894-0165. The first number can also be utilized for such non-emergency problems or issues utilizing voice mail on weekends or holidays.

6. **Drilling and Well Locations.** During actual drilling operations, Operator shall have the right to use up to five (5) acres for the well which it drills on the Surface Tract (Drilling Location). Within one hundred twenty (120) days from the date that Operator completes a well which is capable of producing oil and/or gas in paying quantities, Operator shall reduce the Drilling Location to a two (2) acre, or less, area which shall become the Well Location for the

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well, and shall restore the area of the Drilling Location which is no longer included in the Well Location. If the Well Location area is reduced to an area less than two (2) acres, Operator reserves the right from time to time as needed in unforeseen and unanticipated circumstances to use up to but never more than said two (2) total acres for necessary operations during the life cycle of said well. Upon completion of said temporary use of adjacent area, then restoration of the area no longer needed will occur. All tank batteries, separators, treaters, wellheads, pipelines and connections protruding above the surface, firewalls, pits and other permanent or semi-permanent Operator Constructed Facilities in connection with the well, except those such as pipelines, landlines and roads which of necessity must cross other parts of the Surface Tract, shall be located within the Well Location. Any gate currently utilized by Landowner for entry of a field or pasture, that is removed as part of these operations, shall be re-located in such a manner as directed by Landowner.

7. **Operator Constructed Roads.** Operator shall access the Drilling and Well Location area using the most expedient route in a manner that allows for all weather transportation of the heavy loads contemplated herein for the Drilling Operations. Operator will locate any further roads which it constructs so as to conform to Landowner's existing and contemplated uses of the Surface Tract to the extent reasonably practical for Operations hereunder. Damages for new roads will be paid at a rate of \$80.00 per rod. There will be no such charge for use of existing roads, unless they need be widened, in which case the new road rate will be charged, but proportionately only as to the expanded width. For example, if an existing road is widened by 75%, the damages payment rate will be 75% of \$80.00 per rod. There will be no charge for expansions of less than 25% of road width. All Operator constructed or utilized roads shall be capable of bearing traffic in both dry and wet weather conditions and shall be maintained by Operator in good condition until Operator no longer intends to use the road in question. Operator shall maintain complete enclosure at all times where fences exist, and Operator shall immediately restore all fences cut or altered during Operations installing a cattle guard at each fence crossing and gates where necessary. Operator Personnel shall be instructed by Operator to drive in a safe and courteous manner while on the Surface Tract and shall not exceed a maximum speed of forty (40) miles per hour while inside the Surface Tract. Operator shall be liable to Landowner for any injury to or escape of livestock due to Operations. Operator shall build a perimeter fence around the Drilling Location and remove same when the area is reduced to a Well Location and thereafter maintain fences capable of turning livestock enclosing all Operator Constructed Facilities, i.e., not a perimeter fence.

8. **Pipelines.** Operator will make payment to Landowner for its damages in connection with the laying of a gathering pipeline for as many needed rods of pipeline at the rate of \$80.00 per rod, and this payment will be accepted by Landowners as complete reimbursement for the damages caused to the Surface Tract by the laying of any needed gathering pipeline (but not a transmission line serving other acreage, which will require separate authority). Landowner shall have no obligation to refund this payment if Operator does not use all or part of the pipeline length paid for, but, if pipeline as actually laid by Operator has a longer centerline length than the rods paid for, then Operator shall promptly pay Landowners for the additional length at the same rate. Landowners agree to execute, acknowledge and deliver a recordable Notice of Pipeline Right-of-Way within ten business days of Landowners' receipt of a survey plat from Operator

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showing the course of the pipeline to be laid. Operator may take such actions as are reasonably necessary in connection with pipeline construction, operation and maintenance and specifically, on the Easement Tract as described in the Notice, may construct, maintain and change slopes of cuts and fills to ensure proper lateral and subjacent support for and drainage for the pipeline and appurtenant facilities and may trim, cut down or eliminate trees or shrubbery to the extent reasonably necessary to prevent interference with the operation of the pipeline and to remove possible hazard thereto. Operator shall bury all pipelines at least twenty-four inches below the surface unless burying at such depth requires trenching or boring through massive rock or any other substance that cannot be handled by standard pipeline laying equipment, but in no event will surface flow lines or gathering lines be constructed or maintained. During initial pipeline construction, the trenching shall be double ditching done in such a manner so that the top twelve inches of soil will be separated from the balance of the dirt removed in making the ditch or trench for installation of the pipeline. In backfilling, after installation of the line, the topsoil first removed shall be used as cover soil in such a manner so as to result in it being returned to the top of the ditch as topsoil. Landowners shall have the right to fully use and enjoy the Easement Tract; provided, however, that Landowners' enjoyment shall not interfere with the operation, maintenance or safety of a pipeline and, specifically, Landowners shall not, on the Easement Tract, without the written permission of Operator (1) construct any temporary or permanent building or site improvements, other than streets and roads that do not change the cover above a pipeline; (2) drill or operate any well with a surface location on the Easement Tract; (3) remove soil or change the grade or slope; (4) impound surface water; or (5) plant trees. Any roadways constructed by Landowners on the Easement Tract shall not damage, destroy or alter the operation of the pipeline and its appurtenant facilities. If a pipeline constructed by Operator ceases to be used for a period of twelve consecutive months, Operator shall remove or otherwise render the pipeline safe under prevailing regulatory standards (i.e. abandonment in place will be satisfactory) and shall restore the surface as described elsewhere herein.

9. **Surface Tract Buildings and Fire Damage.** No well shall be drilled within two hundred (200) feet of any building existing prior to Operator's operations (including the surveying and location of Operator's desired drill site) on Surface Tract without Landowners' written consent. In the event of any grass or range fire determined or declared by the local fire department or VFD or any Chaves County governmental authority to have been caused by Operator activities or negligence, liquidated damages in the amount of \$250 per burned acre on the tract, and any adjacent tracts owned by owner which are affected by such fire, shall be paid by Operator to Landowner.

10. **Water and Caliche.** Operator shall have no right to (a) use water from any of Landowner's water wells, tanks, creeks, or springs on the Surface Tract for any purpose, or (b) use any water from the Surface Tract which is suitable for human, animal or agricultural consumption in any secondary or other enhanced recovery operations, unless mutually satisfactory arrangements are made for the purchase of such water. If Operator shall drill a water well on the leased premises, Operator agrees to give Landowner at least thirty days written notice prior to plugging and abandoning said well, and Landowner shall have thirty days from receipt of said notice within which to notify Operator that Landowner wishes to take over operation of said well. If Landowner gives said notice Operator agrees to leave such well in cased condition except

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however, Operator reserves the right to remove any and all equipment placed thereon by Operator. It is further agreed that Landowner shall accept all responsibility and liability to the applicable regulatory agencies for such water well, including, but not limited to, plugging and abandoning same. Operator shall operate all water producing Operator Constructed Facilities in such a manner as to not cause drawdown of Landowner's wells below the level of Landowner's reasonable needs for other purposes on the Surface Tract, and shall allow Landowner's livestock access to water produced from such well, at a livestock watering tank to be constructed and maintained by landowner

Operator may have and use caliche from the surface tract, to the extent and at locations approved by the ranch foreman, at a rate of \$4.00 per cubic yard. Caliche pits will be constructed in such shape and layout as to be capable of holding rainwater or rain runoff, when abandoned by the operator, if directed by the ranch manager. A caliche pit from which no withdrawals have been made for 24 consecutive months will be deemed abandoned by the Operator, without right of reentry unless approved by the ranch foreman.

11. **Plugging of Wells.** All wells drilled by Operator which are not initially or are no longer capable of producing oil and/or gas in paying quantities shall be plugged and abandoned in accordance with prevailing good industry practice and in compliance with applicable regulations.

12. **Restoration.** No later than one hundred and twenty (120) days after there is no longer a reasonable need for Operator to continue to use an area of the Surface Tract in which Operator has disturbed the surface, Operator shall restore the surface as follows:

- a. Operator shall fill and level all significant surface disturbance caused by operations and restore the affected area as nearly as reasonably practicable to a condition suitable to Landowner's uses in the area;
- b. Unless given Landowner's written request to leave a road intact, Operator shall remove all surfacing materials brought into the area by Operator;
- c. Operator shall replace the available topsoil, and apply sufficient fertilizer, soil dressing and seed to restore native grasses;
- d. Operator shall only be allowed to spread the contents of its fresh water pits upon the surface; All spent drilling mud located in the reserve pit shall be de-watered by the hauling of the solids and liquids off of the tract and restoration of the pit site in accordance with the prevailing rules of the New Mexico Oil Conservation Division.

13. **Protection of the Environment; Hazardous Waste Materials.** Operator shall use good industry practice to prevent contamination or pollution of any soil, surface waters, groundwater, sediments, and surface or subsurface strata, ambient air and any other naturally occurring substance in, on, or under, the Surface Tract by any waste, pollutant or contaminant. Operator shall use all reasonable means at its disposal to recapture any escaped hydrocarbons or other

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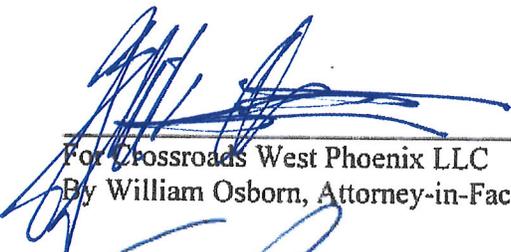
pollutants. Operator shall not bring or permit to remain on the Surface Tract any hazardous substances; provided that this shall not apply to products commonly used in connection with oil and gas exploration and development and stored in a usual manner and quantities.

14. **Indemnity.** OPERATOR SHALL PROTECT, INDEMNIFY, HOLD HARMLESS AND DEFEND LANDOWNERS AGAINST ANY CLAIM, DEMAND, COST, LIABILITY, LOSS OR DAMAGE SUFFERED BY LANDOWNERS, INCLUDING REASONABLE ATTORNEY FEES AND LITIGATION COSTS, ARISING OUT OF OR ASSOCIATED IN ANY WAY WITH OPERATIONS.

15. **Covenants to Run with Land; No Warranty.** These Covenants shall run with the land and inure to the benefit of Landowners, Operator, and their successors and assigns. Landowners make no warranty of title or ownership, express or implied, it being understood that Operator will satisfy itself as to these matters through its own independent efforts.

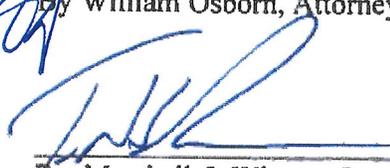
16. **Notices.** All notices and other communications given in connection with these Covenants shall be in writing and shall be deemed to have been properly given and received on the date when personally delivered, or shall be deemed to have been properly given on the date of actual receipt if delivered by certified mail, fax or courier. The following addresses are hereby designated for the receipt of notices:

These Covenants are EXECUTED to be EFFECTIVE as of January 19, 2018.



For Crossroads West Phoenix LLC
By William Osborn, Attorney-in-Fact

June 6, 2018
Date



For Marshall & Winston Inc.

June 5, 2018
Date

By: Todd Passmore
Operations Manager

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