

SURFACE USE AND DAMAGE AGREEMENT—

This Agreement is made and entered into effective this 18th day of May, 2016, by and between the Office of Navajo and Hopi Indian Relocation ("ONHIR"), an independent agency in the Executive Branch of the United States Government as Federal Land Administrator of the surface estate of the lands subject to this Agreement which are lands held by the United States in trust for the Navajo Nation and whose address is P.O. Box KK, Flagstaff, AZ 86002 and Vision Energy, LLC., whose address is 39 Old Ridgebury Road, Danbury, CT 06810 (hereinafter referred to as "Operator") with the concurrence of the Nahata Dziil Commission Governance ("NDCG"), P.O. Box 400, Sanders, AZ 86512.

WITNESSETH:

WHEREAS, ONHIR administers the surface estate described on Exhibit "A" attached hereto (the "Lands"); and

WHEREAS, Operator holds one or more valid Oil and Gas Leases, including the helium rights and/or leases from third parties covering all or portions of the Lands; and

WHEREAS, the parties wish to enter into an agreement respecting the use by Operator of portions of the Lands for the purposes of drilling, completing, equipping and operating one or more helium wells, and installing and operating equipment and facilities incidental thereto, on the Lands.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Right of Use.** ONHIR hereby gives and grants to Operator, its agents, employees, drilling contractors, and related service companies, subject to the terms of this Agreement, the exclusive right to enter upon and use the Lands for the purpose of drilling, completing, equipping and producing one or more helium, gas or oil wells at legal locations or at such exception locations as are approved by the Arizona Oil & Gas Conservation Commission, together with the right for Operator to use necessary Lands to construct and maintain one or more access roads, well sites, tank batteries, power lines, well site compression, and gas gathering equipment and pipelines in connection with the oil, natural gas or helium well(s) to be drilled by Operator upon the Lands, and as set forth in Exhibit "B" attached hereto. Operator agrees that it shall not hydro frac wells without the written consent of ONHIR. In addition, Operator shall not drill more than 4 operating wells on the Land (defined on Exhibit A).

2. **Notification and Consultation.** Prior to initiating the drilling of any well, Operator shall notify ONHIR and NDCG prior to entry upon the Lands and shall consult with ONHIR as to the location of each well, road, pipeline, power line, tank battery, or other facility to be placed upon the Lands.

3. **Compensation.** As compensation for surface damages and as rental for use of ONHIR's surface estate, Operator shall pay to NDCG the following:

- (a) If this Agreement is executed no later than June, 15, 2016, the sum of \$2,500.00, payable upon execution of this Agreement, and the onetime payment in the amount of Four-Thousand-Three -Hundred Thirty Eight Dollars (\$4,338.00) for anticipated surface disturbance to the Lands (including, but not limited to, the construction of any road or gas gathering and transportation pipeline pursuant this Agreement), payable prior to commencement of such surface disturbing activities. In the event that any well drilled upon the Lands is completed as a commercial producer of helium, Operator shall pay NDCG the sum of Five-Thousand Dollars (\$5,000.00) per Plant per year. The annual payment described herein shall commence one year from the date of the initial well payment, and

shall allow Operator the rights for Operator, its agents, employees, service contractors, and successors in interest access to its well site, and facilities incidental thereto, as long as the annual payments are made and the well is capable of producing helium in paying quantities.

- (b) On the fifth anniversary of this Agreement, and every five years thereafter, payments provided for in this Agreement shall be increased by a percentage equal to the increase in the Consumer Price Index as published by the United States Department of Commerce for the preceding five-year period, provided any such increase shall not exceed two percent (2%) in any 12 month period.

4. Road Construction and Use. Any roads constructed or used by Operator on the Lands shall be constructed or used to the following specifications:

- (a) The access road to the well site will be constructed along a route, and constructed to specifications, as set forth in Exhibit "B" attached hereto.

- (b) The surface of all roadways shall not exceed 20 feet in width for traveled surface.

- (c) If requested by ONHIR, access to the Lands of ONHIR from any public road shall be controlled by a swinging locking metal gate in addition to a cattle guard, which gate and cattle guard Operator shall construct in accord with ONHIR's reasonable specifications.

- (d) Culverts shall be placed in low areas for proper drainage.

- (e) No off-road travel is permitted.

- (f) The use and construction of roads by Operator on the Lands is a non-exclusive use, and ONHIR may allow other parties to use said roads. ONHIR shall have no responsibility for road maintenance, but may assist in maintenance operations.

- (g) Operator agrees, if requested by ONHIR, to place an appropriate sign or signs on any road designating them as "private roads". The size and color of such signs shall be subject to ONHIR's approval.

- (h) ONHIR may lock gates across its private roads, provided that Operator shall have the right to place its own locks on such gates. The parties shall exchange keys to all locks.

- (i) Operator shall maintain existing and newly constructed roads used by Operator to the reasonable satisfaction of ONHIR. This work shall be coordinated by the Operator and ONHIR and done at reasonable times.

- (j) No roads on the Lands shall be constructed or used by Operator for access to lands not subject to this agreement without a separately negotiated agreement.

5. Well Sites. Each well site located on the Lands shall be limited to no more than two (2) acres in size during drilling, completion, and reworking activities, and no more than two (2) acres in size for producing well sites, including any tank batteries and/or well site compression constructed by Operator. Operator agrees to fence the pits and other dangerous areas and at all times keep its well sites in good order and free of litter, debris, trash, or spilled hydrocarbons. In the event Operator does not encounter commercial quantities of helium, oil or natural gas at any well location and determines the location to be a "dry hole," or upon cessation of production, Operator shall give ONHIR thirty (30) days written notice of the opportunity to take over any abandoned well and convert the same to a water well, without any obligation to reimburse the Operator or its drilling contractor the cost of drilling the well or casing such well. No covenant or

warranty of title is made by Operator with regard to any water rights associated with any such well. If ONHIR elects in writing to take over the abandoned well and convert the same to a water well, then the ONHIR shall be responsible for the operation and maintenance of the well and shall assume all liability associated therewith. If ONHIR does not elect to take over the well and convert it to a water well, Operator shall fill in, smooth over, and clean up the well site and shall restore and reseed the area with a seed mix reasonably approved by ONHIR after replacing topsoil. All cleanup and restoration activities shall be completed by Operator as soon as the reserve pit has been allowed to dry so that proper backfilling can be accomplished. In the event that any well drilled upon the Lands is completed as a commercial producer of oil, natural gas and/or helium, Operator shall clean up the well site location and use only so much of the area as is reasonably necessary for its operations, and Operator shall restore such well location, reseeding the same with a seed mix specified by ONHIR, and Operator shall keep all well site locations neat, orderly, and clean at all times.

6. **Gas Gathering Pipelines.** In the event that any well drilled upon the Lands is completed as a commercial producer of helium, oil or natural gas subject to the per acre compensation set forth in section 3 of this Agreement, ONHIR hereby gives Operator the right to construct, maintain, inspect, operate, protect, repair, alter, replace, and remove a gas gathering and transportation pipeline, together with necessary valves, cathodic protection equipment, and appurtenances useful and incident to the operation and protection thereof, for the transportation of oil, natural gas or helium bearing gas from the well(s) located on the Lands and subject to this Agreement. Any pipeline shall be constructed across the traverse indicated in Exhibit "B" attached hereto. Unless otherwise agreed to by ONHIR and Operator in writing, any pipelines constructed by Operator on the Lands shall be constructed and maintained to the following specifications:

(a) The top of any pipeline shall be buried at least 24 inches below the surface of the ground.

(b) Operator shall comply with the regulations of the Arizona Oil and Gas Commission and be responsible for backfilling, repacking, reseeding, and recontouring the surface so as not to interfere with ONHIR's agricultural operations. If pipeline trenches settle so as to interfere with ONHIR's irrigation or ranching activities, upon request by ONHIR, Operator shall fill in, repack, and level such trenches.

(c) Operator shall provide ONHIR with a plat showing the "as built" length and location of all pipelines promptly after their installation.

(d) ONHIR reserves the right to occupy, use and cultivate the lands affected by such pipeline, and to grant such rights to others, so long as such use does not interfere with Operator's operations.

(e) If Operator fails to use any pipeline for a period in excess of sixty (60) consecutive months, the pipeline shall be deemed abandoned and Operator shall promptly take all actions necessary or desirable to clean up and remove the pipeline, or render the pipeline environmentally safe and fit for abandonment in place. All such cleanup and mitigation shall be performed in compliance with all applicable federal, state, and local laws and regulations.

7. **Power Lines.** Any buried or overhead power lines constructed on the Lands shall be constructed and maintained to the following specifications:

(a) Operator will consult with ONHIR and with the independent power company supplying power to Operator with respect to the location of overhead power lines prior to construction. Overhead power lines will be constructed so as to cause the least possible interference with ONHIR's visual landscape and ONHIR's existing and future ranching operations, and, to the maximum extent possible, overhead power lines will be constructed along fence lines or property lines. All overhead power lines will be located in a manner to minimize or avoid

interference with ONHIR's agricultural operation. No overhead power line will be located where it will interfere with ONHIR's existing irrigation systems or any future irrigation systems which are planned by ONHIR at the time of construction of overhead power lines. ONHIR shall be entitled to receive payment from Operator or Operator's electricity provider for any right-of-way needed for overhead power lines over land of ONHIR that is not leased pursuant to a lease with Operator. Any right-of-way rate will be the local market rate as determined by a local assessor.

(b) All power line trenches shall be fully reclaimed and reseeded to the reasonable satisfaction of ONHIR. Buried power lines shall be installed pursuant to the regulations of the Arizona Oil and Gas Conservation Commission.

(c) Operator agrees that it will not construct overhead power lines in those portions of the Lands which are being irrigated or cultivated or which may, in the future, be irrigated or cultivated or which are fallow as part of a crop rotation or management program.

8. Operations. Operator's operations on the Lands shall be conducted according to the following specifications:

(a) Operator shall at all times keep its well sites and roads safe and in good order, free of noxious weeds, litter and debris, and shall spray for noxious weeds upon reasonable demand by ONHIR.

(b) Operator shall rehabilitate, restore, reclaim, and reseed all disturbed areas caused by Operator's operations within twelve (12) months after termination of construction activities on such sites, unless inclement weather prevents such rehabilitation and restoration within that time period.

(c) All cattle guards and fences installed by Operator shall be kept clean and in good repair and will become the property of ONHIR when Operator ceases ownership of its helium lease covering that portion of the Lands.

(d) Operator shall not permit the release or discharge of any toxic or hazardous chemicals or wastes on the Lands. Any spill of oil, grease, solvents, chemicals, or hazardous substances on the Lands which are reportable to regulatory authorities under applicable law or regulations shall be immediately (within 24 hours) reported to ONHIR and NDCG by telephone, fax, or e-mail, to be followed by copies of written notices which Operator has filed with regulatory authorities within five (5) business days after such filing.

(e) Operator shall remove only the minimum amount of vegetation necessary for the construction of roads, well locations, and other facilities. Topsoil shall be conserved during excavation, stockpiled and reused as cover on disturbed areas to facilitate regrowth of vegetation.

(f) All surface facilities not subject to safety requirements shall be painted to blend with the natural color of the landscape.

(g) No living quarters shall be constructed upon the Lands, except that drilling crews and geologists or service personnel may use housing trailers for the benefit of the Operator during drilling, completion, or reworking activities and any other temporary activity of the Operator on the Lands.

(h) Operator shall not fence any access roads without the prior consent of ONHIR.

(i) Operator shall construct and maintain stock-tight fences for both sheep and cattle around any dangerous areas, including any pits where Operator drills wells.

(j) Operator and its employees, agents, and contractors shall leave all gates located on the Lands as they found them; gates found closed are to be closed; gates found open are to be left open.

(k) None of Operator's employees, agents, or contractors, or any other person under the direction or control of Operator shall be permitted to carry firearms or any other weapons on the lands and such persons shall not hunt, fish, or engage in recreational activities on the Lands. No dogs will be permitted on the Lands at any time. Operator will notify all of its contractors, agents, and employees that no dogs, firearms, weapons, hunting, fishing, or recreational activities will be allowed on the Lands. None of Operator's employees, agents, or contractors, or any other persons under the direction or control of Operator, shall possess or be under the influence of alcohol or illegal drugs while on the Lands.

(l) Operator shall conduct operations and activities on the Lands in accordance with all applicable local, state, and federal laws, rules, and regulations.

(m) No open fires shall be permitted on the Lands. Operator shall take all reasonable steps to prevent fire and to promptly extinguish fire, including, but not limited to, maintaining a fire extinguisher, shovel, and bucket in each service vehicle entering upon the Lands. Operator shall fully and promptly compensate ONHIR for all damages caused by fire arising out of Operator's operations, including, without limitation, any charges incurred by ONHIR for fire suppression and the replacement of fences and other property damaged or destroyed by fire.

9. Produced Water. With respect to any water produced from wells drilled on the Lands in connection with the production of helium, Operator agrees to test such water to determine if such water is fit for consumption by livestock and report the results of such tests to ONHIR and NDCG.

- (a) If the water is not fit for consumption by livestock, then the Operator at its option shall either cap the well or shall haul the same away from the Lands and properly dispose of such produced water off the Lands pursuant to the Arizona Oil and Gas Conservation Commission rules and regulations.
- (b) If the water is fit for consumption by livestock the Operator, ONHIR and NDCG shall work collaboratively to pipe or otherwise transport such water to a location off the lands where the water may be used for livestock purposes, provided, however, that this provision 9(b) shall not obligate Operator to pay any capital or operating expenses beyond the cost of installing a valve on the wellhead.

10. Extraordinary Damages. The compensation provided for herein is acknowledged by ONHIR as sufficient and in full satisfaction for damages and use of the Lands caused or created by the reasonable and customary entry, egress, and operation and use of roads, well sites, pipelines, and facilities incidental thereto, but do not include damage to livestock, buildings, or improvements, or injuries to persons. This Agreement does not relieve Operator from liability due to Operator's negligence or due to spills or discharges of any hydrocarbon or toxic substance or hazardous chemicals or wastes, or from leaks or breaks in Operator's pipelines. Damage to or loss of livestock, caused by Operator, shall be paid for by Operator at the higher of market value or replacement cost.

11. Reclamation and Reseeding. Unless ONHIR otherwise agrees in writing, within one (1) year after termination of Operator's operations on the Lands, Operator shall fully restore and level the surface of the lands affected by such terminated operations as near as possible to the contours which existed prior to such operations. Operator shall use water bars and other measures as appropriate to prevent erosion and non-source pollution.

12. **Indemnification.** To the maximum extent permitted by law, Operator will indemnify, defend, and hold ONHIR, the United States and NDCG and their employees harmless from any and all third party claims, liabilities, demands, suits, losses, damages, and costs, including, without limitation, any attorneys' fees to the extent arising out of Operator's acts or omissions on the Lands, but specifically excluding any claims arising out of the acts or omissions of ONHIR, the United States, NDCG or any of their respective employees or agents or unrelated third parties.

13. **Designated Contact Person.** Operator, NDCG and ONHIR will each from time to time designate an individual, with appropriate 24-hour telephone and fax numbers, who is to be the primary contact person for discussions and decisions concerning matters related to this Agreement. Current contact information is as follows:

For Operator:

Thomas D. Harrison
39 Old Ridgebury Road
Danbury, CT 06810
(203)837-2243

For ONHIR:

Scott Kuhr
Land Management Specialist
ONHIR
P.O. Box KK
Flagstaff, AZ 86002

and

Mae Salago-King
New Lands Program Operations Specialist
ONHIR
P.O. Box 130
Sanders, AZ 86512

For NDCG:

Administrative Assistant
Nahata Dziil Commission Governance
P.O. Box 400
Sanders, AZ 86512

14. **Assignment.** This Agreement shall run with the Lands and shall be assigned by Operator in connection with any assignment of Operator's leasehold rights under all or a portion of the Lands described in Exhibit "A".

15. **Intentionally Omitted.**

16. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the successors and assigns of the parties. ONHIR agrees to contact any tenant or grazing lessee of the surface estate described on Exhibit "A," or any other third parties utilizing the surface of the Lands, that may be affected by Operator's activities on the Lands. It shall be ONHIR's sole

responsibility to advise such third parties of the existence of this Agreement and Operator's right to utilize the surface of the Lands pursuant the terms hereof.

17. **Applicable Law.** This Agreement shall be construed under the laws of the State of Arizona. The Agreement shall be governed by applicable federal law and the laws of the Navajo Nation including but not limited to the Navajo Preference in Employment Act and the Navajo Nation Business Opportunity Act.

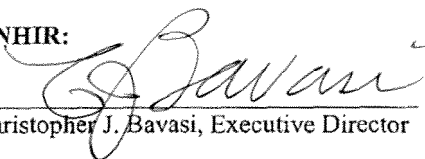
18. **Default and Right to Cure.** In the event of alleged default by Operator in the payment of any of the sums hereinabove provided to be made, in obligations to be performed, or any other terms, conditions or covenants of this Agreement, ONHIR will notify Operator, by certified mail, return receipt requested, of the alleged default. Operator shall have thirty (30) days from receipt of the written notification in which to cure the alleged default or otherwise appropriately respond to the notification.

19. **Limited Term.** Notwithstanding anything herein to the contrary, this Agreement shall have an effective term for as long as the leases of Operator to which this Agreement applies, no greater than twenty (20) years.

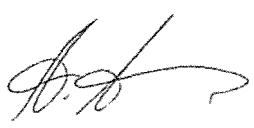
20. **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which (whether by email, facsimile, or other electronic means) shall be deemed to be an original, and all of such counterparts shall constitute one Agreement.

DATED as of the year and date first above written.

ONHIR:


Christopher J. Bavasi, Executive Director

OPERATOR: Praxair, Inc


By: Amer Akhras
Title: General Manager, Helium

CONCURRENCE: NDCG


Darryl T. Ahasteen
President, Nahata Dził Commission Governance

EXHIBIT "A"
to Surface Use and Damage Agreement dated _____, 2015 by and between
ONHIR and Praxair, Inc

LEGAL DESCRIPTION of THE LANDS SUBJECT to THIS AGREEMENT:

The South Half of the North Half, North Half of the Southwest Quarter, and Northwest Quarter of the Southeast
Quarter of Section 32, Township 20 North, Range 29 East,
Gila and Salt River Meridian, Apache County, Arizona.

EXHIBIT "B"
to Surface Use and Damage Agreement dated May 18th, 2015 by and between
ONHIR and Vision Energy LLC.

Excerpts from Environmental Assessment Illustrating Total Surface Disturbance, Well Pad Location, and Pipeline
and Road Location:

2. Alternatives Including the Proposed Action

Alternative A - No Action

The No Action Alternative generally means that the proposed activity will not take place. This option is provided for in 43 CFR. 3162.3-I (h) (2). The BR NEPA Guidebook (59 LAM 3-1-1) also states that the No Action Alternative can either be "no change from the current management practices, or a description of what is reasonably foreseeable, if the proposed action does not take place." The No Action Alternative is presented here as a baseline for the purposes of comparing and analyzing resource impacts.

This alternative would deny the approval of the proposed Vision 32-1 application, and the current land and resource uses would continue to occur in the proposed project area. Because the proposed activity would not occur, no mitigation measures would be required.

2.2 Alternative B - Proposed Action

The Proposed Action invokes drilling the Vision 32-1 well, constructing a well pad, a gas plant, an access road, an associated pipeline and an overhead power line. The Proposed Action is located nine (9) miles south of the community of Sanders in Apache County, Arizona as indicated in Table 1. A summary of land uses is given in Table 2.

Table1. Well Location

Well Name	Surface Position	Township	Range	Section	County	Oil & Gas Lease	Quad Map
32-1	1660' FNL 1660' FWL	20N	29E	32	Apache	State	Beacon Well, AZ

AT: 35.0910995°N, 109.2896729°W. (NAD83)

Table2. Land Use Summary

2.2.1 Well Drilling and Well Pad Construction

Navajo Nation Surface Ownership	Length (ft)	Width (ft)	Land Use (acres)
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Well Pad	270	170	1.05
Road and Pipeline Corridor	2,002.2	40	1.83
Gas Plant	208	208	1.0
Overhead Power Line	4,029.35	25	2.31
			6.19

Vision will drill the well to a 1300 foot depth to extract natural gas and helium gas from the Coconino and Shinarump sandstones. The well pad will be 270 feet by 170 feet. The gas plant will be 208 feet by 208 feet. The top six inches of soil and brush will be stripped and stockpiled south of the pad away from the pit's subsoil for later use in reclamation. Slopes will be no steeper than a three to one ratio.