

SURFACE USE AGREEMENT

6th THIS SURFACE USE AGREEMENT ("Agreement") is made and entered into this day of June, 2013, by and between **K.P. KAUFFMAN COMPANY, INC.** and/or its assignee ("KPK"), a California corporation with an address of 1675 Broadway, Suite 2800, Denver, Colorado 80202, and **OTTO HEROLD, as Trustee of the June L. Herold Trust, u/t/a dated 11/13/81, and as Trustee of the Otto E. Herold Trust, u/t/a dated 11/13/81**, with an address of 5058 S. Elati St., Englewood, Colorado, 80110 ("Surface Owner"). KPK and Surface Owner may collectively herein be referred to as the "Parties".

RECITALS

A. Surface Owner owns or has the right to use and develop the surface estate of the individual parcels of property (hereinafter called the "Property") described below and more particularly described on **Exhibit "A"** attached and made a part hereto:

Southeast ¼ of the Southwest ¼, Section 17,
Township 1 North, Range 67 West, of the 6th P.M.
Weld County, Colorado

B. KPK is the assignee of certain oil and gas leasehold rights entitling KPK to explore for, develop, and produce certain oil, gas and other hydrocarbons that underlie the Property.

C. As of the date of this Agreement KPK does not have any existing oil and gas wells on the Property and operates oil and gas wells and associated oil and gas production equipment near and adjacent to the Property including, but not limited to pipelines, a tank battery, and lease roads.

D. The Surface Owner desires to use and develop the surface of the Property in a manner compatible with KPK's rights and obligations to produce oil and gas from beneath the surface of the Property. KPK desires to produce the oil and gas from beneath the surface of the Property in a manner that will allow the Surface Owner to develop the surface of the Property. This Agreement is intended to describe the means by which compatible development of the surface estate and the oil and gas estate by the respective Parties may occur.

NOW THEREFORE, in consideration of the covenants and mutual promises set forth herein, including the information set forth in the recitals, the parties agree, to the extent of each of their respective interests in the Property only, as follows:

1. Oil and Gas Operations Areas and Production Site Locations.

a. Well Locations. KPK intends to drill and produce the following named oil and gas well on the Property, as further depicted on **Exhibit A** hereto:

UPRR 42 Pan Am N#4 – Located 1490' FWL and 600' FSL (the "Well").

b. Tank Battery Locations. KPK owns and operates an oil and gas tank battery located on real property immediately adjacent to the east of the Property ("Battery Location"), as well as other related production equipment, lease roads, flow, and gathering lines leading to the Battery Location and to third party pipelines, as depicted on **Exhibit A** hereto. The Parties agree that a portion of a 200 foot Tank Battery Setback zone depicted on Exhibit A extends onto a portion of the Property, and that within such zone there shall be no surface improvements including, but not limited to, surface property lines, fences and roadways.

c. Permanent Oil and Gas Operations Areas. Upon completion of drilling operations, KPK shall restore the surface as best as possible to its pre-existing condition, including without limitation, reseeded. The Parties agree and understand that KPK requires a certain amount of surface area to safely drill, deepen, workover, operate, and maintain the Well, referenced herein as the Oil and Gas Operations Area ("OGOA"), and depicted on **Exhibit A** as 150' Wellhead Setback. The Parties agree that the OGOA shall be an area without surface improvements including, but not limited to, surface property lines, fences and roadways. The OGOA is defined by a circle with the Well at the center and extending in a radius of 150 feet from the wellbore, as shown on **Exhibit A** hereto. Other oil and gas operators with oil and gas lease rights to drill or operate on the Property may occupy portions of the OGOA. Nothing in this provision is intended to imply third party beneficiary status to other oil and gas operators.

d. Permanent Battery Location Connection. The Parties agree that the Well shall be connected to the Battery Location by a single pipeline, an easement for which shall be granted to KPK in the form of the Access Road and Line Easement Agreement attached hereto as Exhibit B. The easement shall include an area outside the OGOA with dimensions of approximately 20 feet long by 50 feet wide during construction and 25 feet wide permanently. The pipeline shall be buried to a depth of four (4) feet below the surface, except for its connection to the Well. Any above-ground portion of such connection to the Well and the Well shall be fenced with a standard 6' high chain link fence. The cost to install such fence shall be paid by KPK. The Parties further agree that the Surface Owner shall not locate any improvements, underground or on the surface, including, but not limited to, parks, walkways or similar such uses within the 25-foot wide permanent pipeline easement connecting the Well to the Battery Location.

2. Waiver of Setback Requirement.

a. Surface Owner and KPK understand and acknowledge that the Colorado Oil and Gas Conservation Commission ("COGCC") has promulgated rules and regulations that apply to the distance between a wellhead and public roads, production facilities, building units and surface property lines, among other things, which rules and regulations may be amended in the future. In order to give full effect to the purposes of this Agreement, Surface Owner and KPK each hereby waives its right to object to the location of oil and gas wells, facilities and other surface use activities or structures on the basis of setback requirements in the rules and regulations of the COGCC or an applicable local jurisdiction, as such rules and regulations may be amended or superseded from time to time. For the operations contemplated by and conducted

consistently with this Agreement, Surface Owner and KPK hereby specifically waive the high density setback distances in the COGCC rules and regulations and any similar limitations of an applicable local jurisdiction.

b. Surface Owner and KPK each further and similarly waives its right to object to any other state or local setback requirements, notice and consultation requirements, or other requirements or regulations that are or become inconsistent with the terms and conditions of this Agreement. KPK, its successors and assigns, may cite the waiver in this paragraph 2 in order to obtain a location exception or variance for the Well under COGCC rules or from the rules of any other state or local governmental body having jurisdiction over oil and gas operations. So long as, and to the extent KPK remains in compliance with all terms, conditions and obligations hereunder, Surface Owner agrees not to object to the use of the surface within the Oil and Gas Operations Areas for drilling or maintenance of the Well. KPK agrees not to object to any use or activities outside the OGOA, so long as the use or activity is consistent with this Agreement.

3. Access to OGOAs and Battery Location.

a. Present Lease Roads. The Parties acknowledge that KPK now has a lease road or roads on real property immediately adjacent to the east of the Property for access to the Battery Location. As part of the Access Road and Line Easement Agreement attached as **Exhibit B** hereto, Surface Owner shall dedicate to KPK, for its nonexclusive use, an access road easement of not less than 50 feet in width during construction and not more than 25 feet wide permanently, that KPK may develop and use to move its trucks and equipment over and across for the purpose of drilling or maintaining the Well (the "Access Road"), as depicted on **Exhibit A**.

b. Changes to Access Road. At the written request of Surface Owner, KPK shall relocate a portion of or all of the Access Road in accordance with this Agreement, provided that the relocation of such Access Road will not interfere with KPK's use and enjoyment of its interest in the oil and gas rights. All portions of the Access Roads off of city streets, or located within the OGOA will prohibit use by the Public.

c. Access for KPK. KPK shall be responsible for constructing and maintaining all portions of the Access Road. KPK assumes all risk of access, regardless of the type of Access Road to be used or its stage of construction, provided however that the Surface Owner shall not cause or permit any person or entity acting by through or on behalf of Surface Owner to obstruct KPK's access to the OGOA through the easement granted by **Exhibit B**.

4. Flow and Gathering Lines.

a. Flow and Gathering Lines. Upon completion of the Well, KPK intends to connect the Well to the Battery Location by a single subsurface oil and gas pipeline ("Line") on the Property that carries oil, gas and other hydrocarbons to the Battery Location. As noted above, Surface Owner shall grant a recorded easement for the Line in the form of **Exhibit B** attached hereto, to 50 feet in width during construction of the Lines and 25 feet in width for all operations,

maintenance and transportation activities of the Lines. Line locations may be further modified by mutual agreement of the Parties provided, however, all costs and expenses of any relocation shall be borne by the Party making the request for such relocation. Neither Party shall unreasonably withhold its consent to any relocation, each of which shall be memorialized in an appropriate modification to Easement Agreement in substantially the same form as **Exhibit B**.

b. Vertical Requirements within KPK Line Easements. After written notice of at least fifteen (15) days, Surface Owner shall have the right to cross any Line Easement with roadways and other utilities, provided such crossing is made at an angle of not less than 60° and not more than 90° from KPK's Lines. Except as provided in subparagraph 4(c) below, in no event shall such utility run parallel above KPK's Lines. KPK requires that all subsurface utilities be not less than 24 inches below KPK's Lines. Overburden above KPK's Lines shall not exceed 72 inches. If a roadway crosses above KPK's Lines, that portion of said Line will be encased with protective pipe and provided with vents on each side of the roadway crossing. All expenses for the encased pipe and vents will be paid for by the Surface Owner. Roadways shall not be constructed parallel above KPK's subsurface Lines.

c. Horizontal Requirements within KPK Easements. Surface Owner may request from KPK the right to place a utility within the Line Easement that would parallel KPK's Lines. KPK will not unreasonably withhold its consent to such use by Surface Owner, but in no event shall such utility be placed within 10 feet of KPK's Lines.

d. Requirements for Encasement of KPK's Lines. In the event that any requested proposed relocated Line Easement would place KPK's Lines within 75 feet of an ignition source including, but not limited to, houses, buildings, structures or any other potential source of ignition, then the Lines shall be "encased" at the Surface Owner's expense. The term "encased" shall mean that KPK's Lines shall be enclosed in a second steel pipe with inspection vents on each end of the Lines. In addition to the encasement, the party requesting the relocation shall obtain an extra easement incorporated into the relocated Line Easement for a work area of 30 feet by 75 feet at each end of the encasement (the "Work Area"). No encasement shall exceed 400 feet without the requesting party providing intermediate Work Areas. All Lines that must be encased shall be constructed straight and without curves from Work Area to Work Area, with any curves occurring in a Work Area.

e. OGOAs and Easements. The provisions of subparagraphs b and c of this paragraph shall not be applicable to the exclusive 150-foot area around the Well. Nothing in this provision shall be construed to imply third party beneficiary status to other oil and gas operators.

f. Construction Activities. KPK shall be responsible for segregating the topsoil, backfilling, repacking, reseeding and recontouring the surface of any disturbed areas so as not to interfere with Surface Owner's use and activities and shall reclaim such areas to be returned to pre-existing conditions as best as possible with control of all noxious weeds. KPK shall provide Surface Owner with a map or as-built drawing showing the surface location of the wellbore, and all flow lines, transmission lines, and power lines after their installation. All flow lines located

by KPK on the Property shall be buried to a depth of at least four (4) feet below the surface. KPK shall install metal locator strips above all below grade non-ferrous structures, including all lines. All easements for flow lines and power lines shall be limited to twenty (25) feet in width, being twelve and one half (12.5) feet on each side of the centerline of the line, except during construction when the easements shall not exceed 50 feet in width.

5. Easements. KPK shall prepare and tender by delivery to Surface Owner each easement required as set forth herein the form of **Exhibit B**. Each said easement shall be recorded by KPK with the Weld County Clerk and Recorder (the "Easement").

6. Moving of Electrical Equipment. If, as a result of any changes under this Agreement, KPK's electrical provider should charge KPK for any work necessary to change the electrical equipment used by KPK, the KPK shall pay all such costs. KPK and Surface Owner will cooperate with the electrical provider to accomplish the intent of this Agreement.

7. Consultation. If requested by Surface Owner, prior to heavy equipment operations on the Well, KPK's representative will meet and consult with the Surface Owner respecting the location of the wellsite, access roads, flowlines, tank batteries, and other associated production facilities.

8. Waiver of Thirty Day Notice. Surface Owner hereby waives the minimum thirty-day written notice requirement under Colorado Oil and Gas Commission Rule 305.e.(1)A., Landowner Notice and Advance Notice of Intent, described in the Notice Letter dated February 28, 2013, provided by KPK to the Surface Owner when it initially gave notice of its intent to drill on Surface Owner's property.

9. Waiver of Rights. KPK does not by entering into this Agreement waive any rights it might have under its oil and gas lease, except as specifically set forth herein including, but not limited to, the drilling for and production of oil and gas from the Property.

10. Successor and Assigns. This Agreement, and all of the covenants in it, shall be binding upon the personal representatives, heirs, successors and assigns of all parties and benefits of this Agreement shall inure to their personal representatives, heirs, successors, and assigns.

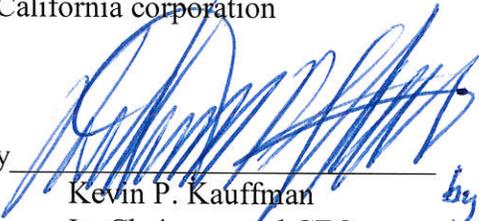
11. Covenants Run with the Land. This Agreement, and all of the covenants in it, shall be binding upon the personal representatives, heirs, successors and assigns of all parties hereto and benefits of this agreement shall inure to their personal representatives, heirs, successors, and assigns.

12. Governing Law. The validity, interpretation, and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

Agreement in its entirety. Upon such request, KPK shall file an appropriate release in the Weld County public records whereby this Agreement shall terminate.

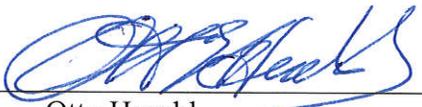
IN WITNESS WHEREOF the undersigned parties have caused this Agreement to be executed by a duly authorized representative on the day and year first above written.

KPK:
K. P. KAUFFMAN COMPANY, INC.,
a California corporation

By 
Kevin P. Kauffman
Its Chairman and CEO

*by Richard P. Stults
for Kevin P. Kauffman*

SURFACE OWNER:
**OTTO HEROLD, as Trustee of the June L. Herold
Trust, u/t/a dated 11/13/81, and as Trustee of the Otto
E. Herold Trust, u/t/a dated 11/13/81,**

By 
Otto Herold

ACKNOWLEDGEMENTS

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 6th day of ~~March~~ June, 2013, by Kevin P. Kauffman as President and CEO of K. P. Kauffman Company, Inc., a California corporation.

Witness my hand and official seal.

My commission expires: November 5, 2016

Jennifer Nicole Feik
Notary Public

JENNIFER NICOLE FEIK
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20124065512
MY COMMISSION EXPIRES NOVEMBER 5, 2016

STATE OF Colorado)
) ss.
COUNTY OF Broomfield)

The foregoing instrument was acknowledged before me this 6th day of ~~March~~ June, 2013, by Otto Herold, as **Trustee of the June L. Herold Trust, u/t/a dated 11/13/81, and as Trustee of the Otto E. Herold Trust, u/t/a dated 11/13/81.**

Witness my hand and official seal.

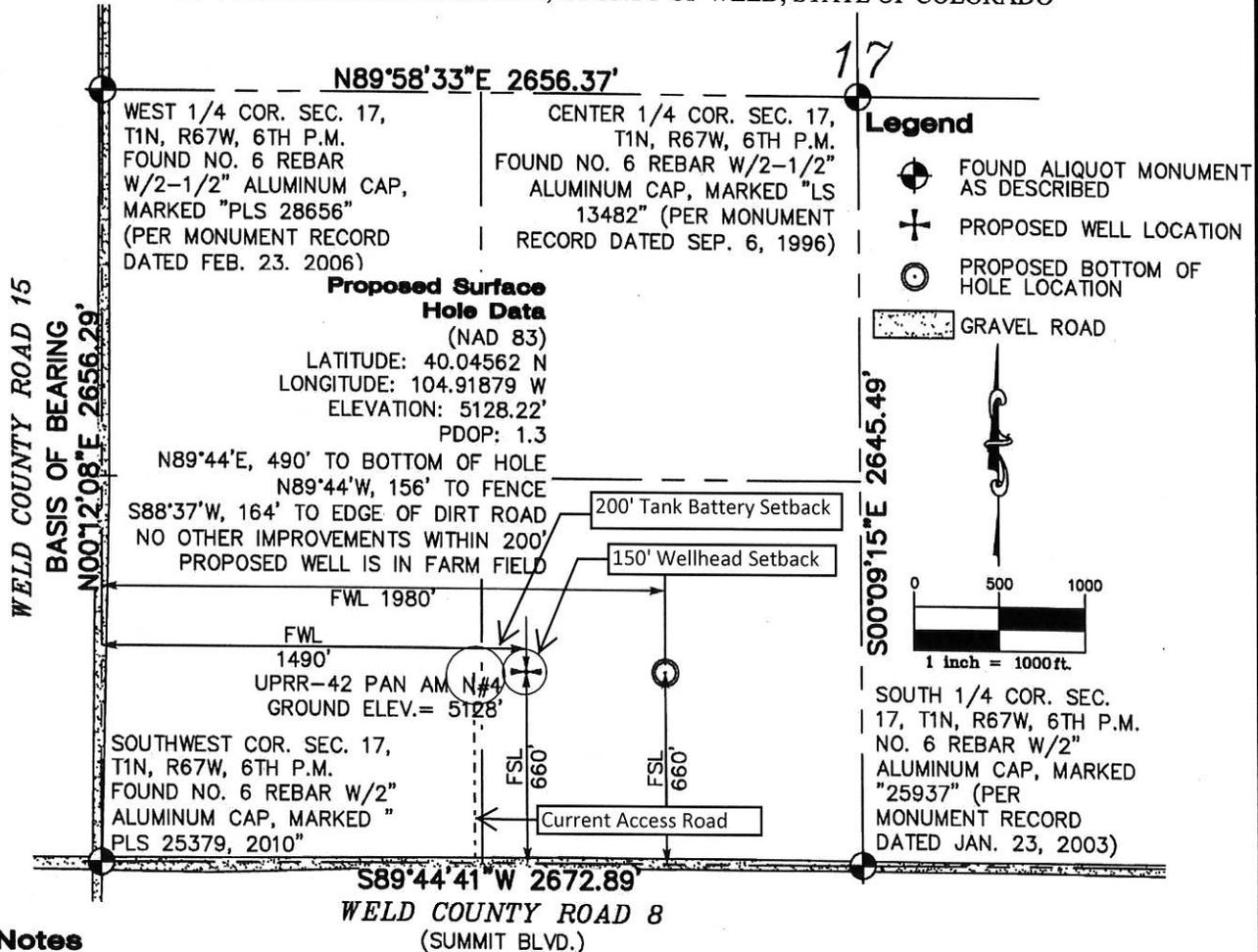
My commission expires: March 15, 2017

Janice Lynn Bennett
Notary Public

JANICE LYNN BENNETT
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19974003520
MY COMMISSION EXPIRES MARCH 15, 2017

Exhibit A

LOCATED IN THE SW QUARTER OF SECTION 17, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO



Notes

1. BASIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF N00°12'08"E ALONG THE WEST LINE OF SECTION 17, BETWEEN THE TWO FOUND MONUMENTS, AS SHOWN HEREON, ON FEBRUARY 4, 2013 BY DAVE ZEROLL COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
2. IN ACCORDANCE WITH A REQUEST FROM SUSANA LARA-MESA OF KP KAUFFMAN INC., FLATIRONS, INC. HAS DETERMINED THE LOCATION OF UPRR-42 PAN AM N#4 WELL SITE TO BE 660' FSL AND 1490' FWL AS MEASURED AT NINETY (90) DEGREES FROM THE SECTION LINES OF SECTION 17, T1N, R67W, OF 6TH P.M., WELD COUNTY, CO.
3. THE WELL IS LOCATED IN THE SE1/4 OF THE SW1/4 OF SECTION 17.
4. ELEVATIONS ARE BASED UPON NAVD 88 DATUM.
5. ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS EXHIBIT WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS EXHIBIT BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., TO KP KAUFFMAN, INC., THAT THIS WELL LOCATION EXHIBIT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT AND WAS PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.



JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN & CEO, FLATIRONS, INC.

Flatirons, Inc.

Surveying, Engineering & Geomatics

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FAX: (303) 443-9830



655 FOURTH AVE
LONGMONT, CO 80501
PH: (303) 776-1733
FAX: (303) 776-4355

www.FlatironsInc.com

EXHIBIT B

To Surface Use Agreement dated May ____, 2013, by and between
K. P. Kauffman Company, Inc., and Otto Herold

ACCESS ROAD AND LINE EASEMENT AGREEMENT

THIS ACCESS ROAD AND LINE EASEMENT AGREEMENT ("Agreement") is entered into this ____ day of _____, 2013, by and between **K.P. KAUFFMAN COMPANY, INC.** ("KPK"), with an address of 1675 Broadway, Suite 2800, Denver, Colorado 80202 and **OTTO HEROLD, as Trustee of the June L. Herold Trust, u/t/a dated 11/13/81, and as Trustee of the Otto E. Herold Trust, u/t/a dated 11/13/81** ("Surface Owner"), with an address of 5058 S. Elati St., Englewood, Colorado, 80110. KPK and Surface Owner may collectively herein be referred to as the "Parties".

WHEREAS, the Parties have entered into a Surface Use Agreement dated June, ____, 2013, and recorded _____ at Reception No. _____ among the records of the Weld County Clerk and Recorder (the "Surface Use Agreement") covering the following described lands:

Southeast ¼ of the Southwest ¼, Section 17
Township 1 North, Range 67 West, of the 6th P.M.

Weld County, Colorado

WHEREAS, the Surface Use Agreement provides that the Surface Owner will provide KPK with a separate easement agreement for an access road and a subsurface pipe line on the Property connecting a certain well to be drilled on the Property to a tank battery located on real property immediately adjacent to the east of the Property.

NOW THEREFORE, in consideration of the covenants and mutual promises set forth herein, including the information set forth in the recitals, the parties agree as follows:

1. Surface Owner hereby grants to KPK a perpetual, non-exclusive easement to install, construct, replace, repair, maintain and use an access road ("Access Road") and a subsurface pipe line on the Property as shown on **Exhibit A** attached hereto and made a part hereof. The easement shall be 25 feet in width for all operations, maintenance and transportation activities of the line(s), and during the period of construction or relocation of any lines, the easement shall be 50 feet in width.

2. The access road or pipe line locations may be changed by mutual agreement of the Parties, provided, however, all costs and expenses of the relocation shall be borne by the party requesting such relocation. Neither party shall unreasonably withhold its consent. The relocation shall be administered in such a way as not to interfere with KPK's ability to exercise its rights to drill for and produce oil, gas and other hydrocarbons on the Property, nor with Surface Owner's right to develop the Property. Any modification shall be memorialized by an

amendment to this Agreement by substitution of a new **Exhibit A** hereto and any other modifications to which the parties agree.

3. After written notice of at least fifteen (15) days, Surface Owner shall have the right to cross the pipe line easement with roadways and other utilities, provided such crossing is made at an angle of not less than 60° and not more than 90° from KPK's pipe lines, except as noted in paragraph 5 below. KPK requires all subsurface utilities be not less than 24 inches below KPK's pipe lines. Overburden above KPK's pipe lines shall not exceed 72 inches. If a roadway crosses above KPK's pipe lines, that portion of said pipe lines will be encased with protective pipe and provided with vents on each side of the roadway crossing. KPK shall encase all piping required in connection with the original location of the Access Road, and all expenses for the encased pipe and vents required by the relocation of any road or pipe will be borne by the party requesting the relocation. Roadways shall not be constructed parallel above KPK's lines.

4. Surface Owner may request from KPK the right to place a utility within the line easement that would parallel KPK's line(s). KPK will not unreasonably withhold its consent to such use by Surface Owner, provided that in no event shall such utility be placed within 10 feet of KPK's flow or gathering line.

5. In the event a requested relocation would place KPK's line(s) within 75 feet of an ignition source including, but not limited to, houses, buildings, or structures capable of being an ignition source, then said line(s) shall be encased at the requesting party's expense. The term "encased" shall mean that KPK's line(s) shall be enclosed in a second steel pipe with inspection vents on each end of the line(s). In the event of the need for encasement, in addition to the amendment of this Agreement by inclusion of a new Exhibit A, the easement shall be expanded to include a work area of 30 feet by 75 feet at each end of the encasement. (the "Work Area"). No encasement shall exceed 400 feet without Surface Owner providing intermediate Work Areas. All lines that must be encased shall be constructed straight and without curves from Work Area to Work Area, with any curves occurring within a Work Area.

6. KPK agrees to keep all portions of easements and the "OGOA" as defined in the Surface Use Agreement free and clear of trash. Without limiting KPK's obligations under Paragraph 7 hereof, Surface Owner reserves the right, but not the obligation, to plant dry land grasses on all easements and the OGOA and to mow, provided however, before planting any grass in such areas, Surface Owner shall request KPK's consent, which consent shall not be unreasonably withheld. Additionally, if Surface Owner elects to mow said easement and the OGOA, it shall do so only in a manner which does not violate the terms of KPK's easement or do damage to KPK's lines or equipment, or interfere with KPK's access or use. Surface Owner agrees to hold KPK harmless for any injury to persons or equipment during Surface Owner's performance under this paragraph.

7. KPK shall be responsible for segregating the topsoil, backfilling, repacking, reseeding and recontouring the surface of any disturbed areas so as not to interfere with Surface Owner's use and activities and shall reclaim such areas to be returned to pre-existing conditions as best as possible with control of all noxious weeds. KPK shall provide Surface Owner with a map or as-

built drawing showing the surface location of the wellbore, and all flow lines, transmission lines, and power lines after their installation. All flow lines located by KPK on the Property shall be buried to a depth of at least four (4) feet below the surface. KPK shall install metal locator strips above all below grade structures, including all lines. All easements for flow lines and power lines shall be limited to twenty (25) feet in width, being twelve and one half (12.5) feet on each side of the centerline of the line, except during construction when the easements shall not exceed 50 feet in width.

8. The terms of this Agreement are subject to the Surface Use Agreement. The Surface Use Agreement will prevail in the event there is a conflict with this Agreement.

9. The Parties agree that this Agreement and the benefits hereunder shall be binding upon and inure to the benefit of the parties hereto and their heirs, successors and assigns.

10. This Agreement and all of its covenants in it shall be covenants running with the land and shall be binding on all parties who succeed to any interest which Surface Owner has in the Property.

IN WITNESS WHEREOF the undersigned parties have caused this Agreement to be executed by a duly authorized representative on the day and year first above written.

KPK:
K.P. KAUFFMAN COMPANY, INC.,
a California corporation

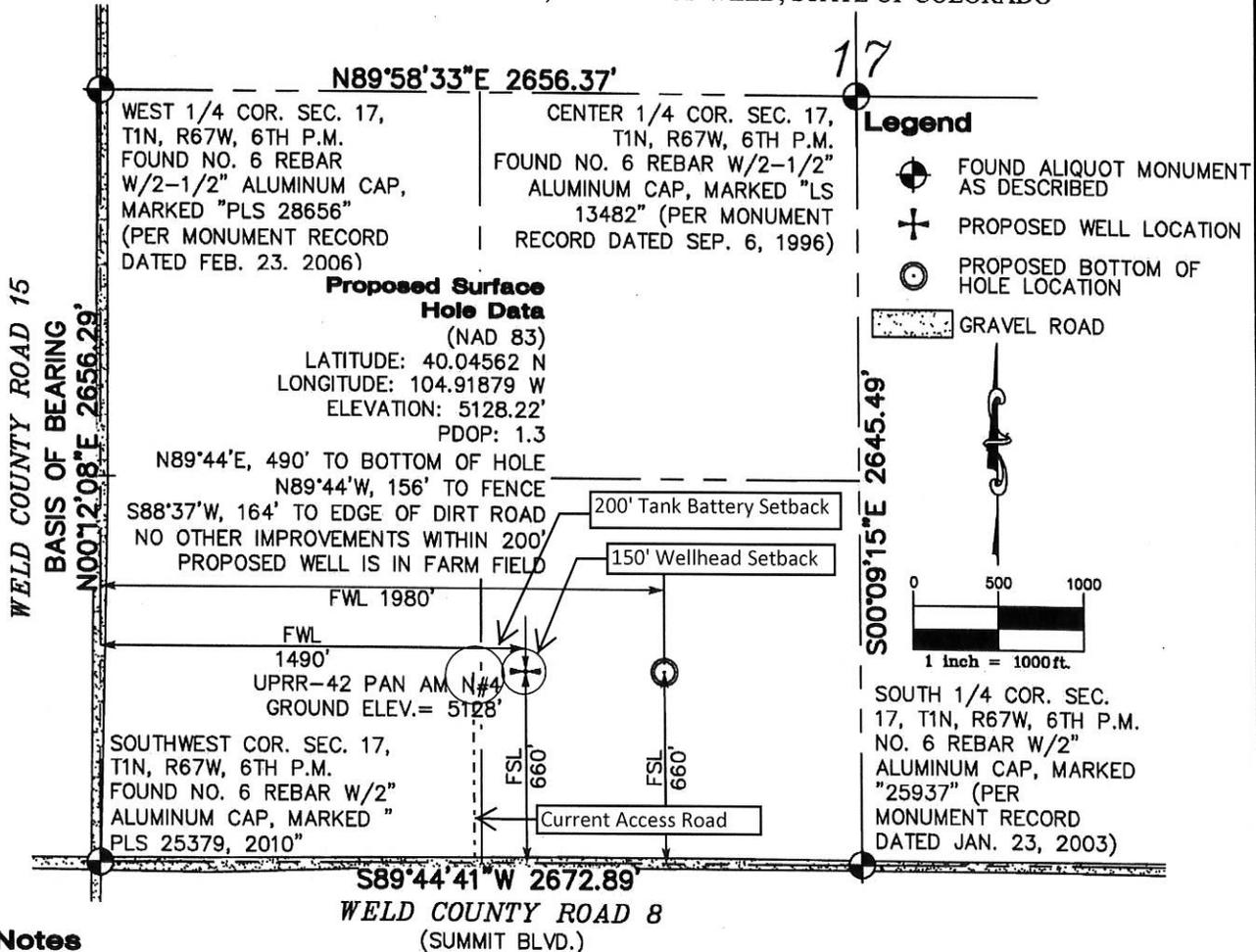
By _____
Kevin P. Kauffman
Its President and CEO

SURFACE OWNER:
OTTO HEROLD
as Trustee of the June L. Herold Trust, u/t/a dated
11/13/81, and as Trustee of the Otto E. Herold Trust,
u/t/a dated 11/13/81,

By _____
Otto Herold

Exhibit A

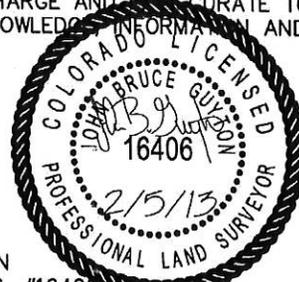
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JOHN B. GUYTON
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