

**MEMORANDUM OF  
SURFACE DAMAGE AND RELEASE AGREEMENT**

WHEREAS, on the 29 day of April, 2013, Lawrence J. Merritt and Jo Ann Merritt, whose address is 14774 Weld County Road 72, Greeley, Colorado 80631 ("Owner") entered into a Surface Damage and Release Agreement ("Agreement") with **Bill Barrett Corporation**, 1099 18<sup>th</sup> Street, Suite 2300, Denver, CO 80202 ("Operator"), covering the below described lands in Weld County, Colorado.

Township 6 North, Range 66 West, 6<sup>th</sup> P.M.

Section 9: Lot B of Recorded Exemption No. 0805-09-1 RE-2946, recorded February 18, 2005 at Reception No. 3262279, being a part of the North Half of Section 9, Township 6 North, Range 66 West of the 6<sup>th</sup> P.M., County of Weld, State of Colorado

**WHEREAS**, said Agreement provides for, among other things, the right to enter upon and use the Owner's property for the purpose of erecting, maintaining, and reclaiming well site location(s) for one (1) or more wells on Owner's land. Said Agreement sets forth payment and specific amounts to cover damages resulting from the construction, use and maintenance of the well site location(s). Said Agreement, with all of its terms, conditions, covenants and other provisions, is referred to and incorporated into this Memorandum for all purposes.

**WHEREAS**, said Agreement also provides that Owner expressly acknowledges that this Agreement satisfies BBC's obligation under COGCC rules to consult in good faith with the surface owner regarding the proposed oil and gas operations and that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligation of BBC to accommodate Owner's use of the surface of the described lands, existing or future, and waives any statutory or common law claims to the contrary.

**WHEREAS**, said Agreement further provides for the waiver by Owner of all notices as required by the COGCC for issuing APDs and as may be required under provisions of COGCC Rule 305. Said Agreement further provides that the provisions of Rule 306.a. "Consultation with surface owner" have been met or waived. Said Agreement further provides for 1) the waiver by Owner of any COGCC setbacks inconsistent with this Agreement, including, but not limited to, setbacks for high density areas and surface lot lines; 2) the waiver by Owner of the COGCC well location requirements of Rule 318A.a., locating a well outside of the GWA drilling window, and 318A.c., locating a well more than 50 feet from existing wells; and 3) the waiver by Owner of its right to appeal COGCC APDs or conditions of approval for such permits.

**NOW THEREFORE**, this Memorandum of Surface Use and Release Agreement is executed for the purpose of recordation in the office of the County Clerk of Weld County in order to give notice of the Agreement. It is not intended by this Memorandum to construe, define, limit or modify said Agreement, but to merely disclose to the public that said Agreement does exist.

**OWNER(s)**

Lawrence J. Merritt

Jo Ann Merritt

**BILL BARRETT CORPORATION**

By: \_\_\_\_\_

Name: Steve W. Rawlings

Title: Senior Vice President – Operations

**ACKNOWLEDGEMENTS**

STATE OF COLORADO )  
 ) ss.  
CITY AND COUNTY OF DENVER )

On this 29 day of April 2013, before me personally appeared Steve W. Rawlings, known to me to be the Senior Vice President – Operations of BILL BARRETT CORPORATION and that he executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

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

My Commission Expires: \_\_\_\_\_

Notary Public: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF ~~WELD~~ LARIMER )

The foregoing instrument was acknowledged before me this 29 day of April, 2013 by Lawrence J. Merritt.

My commission expires JULY 15, 2015

Notary Public: Chris Thorpe



STATE OF COLORADO )  
 ) ss.  
COUNTY OF ~~WELD~~ LARIMER )

The foregoing instrument was acknowledged before me this 29 day of April, 2013 by Jo Ann Merritt.

My commission expires JULY 15, 2015

Notary Public: Chris Thorpe



# RECORDED EXEMPTION NO. 0805-9-1 RECX11-0045

A Replat of Lot B, Recorded Exemption No. 0805-09-1 RE-2946  
 Being Located in the North Half Of Section 9, Township 6 North, Range 66 West Of The 6th P.M.,  
 County Of Weld, State Of Colorado

**PROPERTY DESCRIPTION**

Lot B of Recorded Exemption No. 0805-09-1 RE-2496 as recorded on February 2, 2005 under Reception No. 3262279, of the Weld County Clerk and Recorders Office.

**PROPERTY OWNER'S CERTIFICATE**

We, the undersigned, being the sole owner(s) in fee of the above described property, do hereby subdivide the same as shown on the attached map. We, understand this property is located in the Agricultural zone district and is also intended to provide areas for the conduct of other uses by right, accessory uses and uses by special review.

Lawrence J. Merritt (Signature) Jo Ann Merritt (Signature)  
 Lawrence J. Merritt Jo Ann Merritt

**EASEMENT CERTIFICATE**

We, the undersigned, do hereby dedicate, for the benefit of the property shown or described hereon, easements for the purpose shown or described hereon.

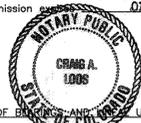
Lawrence J. Merritt (Signature) Jo Ann Merritt (Signature)  
 Lawrence J. Merritt Jo Ann Merritt

**NOTARIAL CERTIFICATE**

STATE OF Colorado )  
 COUNTY OF Weld ) ss.

The foregoing certification was acknowledged before me by MERRITT'S as OWNERS of Pepeka this 9th day of April, 2012.

My commission expires 01-11-2016  
 Notary Public [Signature]



**BASIS OF BOUNDARY AND UNIT DEFINITION**

Assuming the North 1/4 of the Northeast Quarter of Section 9, T. 6N., R. 66W., as bearing South 88°45'37" West being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2007, a distance of 2679.57 feet with all other bearings contained herein relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot."

**CERTIFICATE OF APPROVAL BY THE DEPARTMENT OF PLANNING SERVICES--(ADMINISTRATIVE REVIEW)**

This plat is accepted and approved by the Department of Planning Services for filing

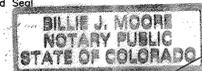
[Signature]  
 Director, Department of Planning Services

**NOTARIAL CERTIFICATE**

STATE OF Colorado )  
 COUNTY OF Weld ) ss.

The foregoing certification was acknowledged before this 11th day of April, 2012.  
 My commission expires 10/22/14

Witness my hand and Seal  
[Signature]  
 Notary Public



**ACCEPTANCE**

This plat is accepted and approved for filing:

Department of Planning Services Director

**NOTARIAL CERTIFICATE**

STATE OF \_\_\_\_\_ )  
 COUNTY OF \_\_\_\_\_ ) ss.

The foregoing certificate was acknowledged before me by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_  
 Notary Public \_\_\_\_\_

(SEAL)

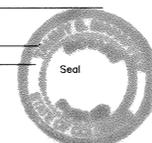
**LIENHOLDER(S):**

By: Kenneth P. West As: VP-Commercial Lending

STATE OF Colorado )  
 COUNTY OF Weld ) ss.

The foregoing instrument was acknowledged before me this 6th day of April, 2012, by Kenneth P. West

Witness my hand and official seal  
 My Commission expires 01/01/2012  
 Notary Public [Signature]



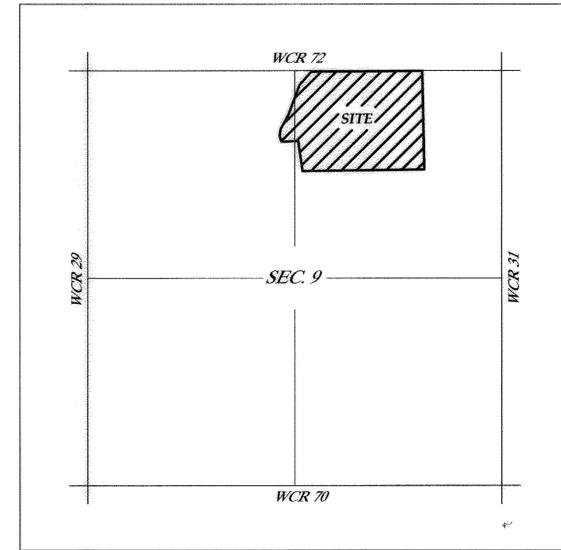
**NOTES FROM THE COUNTY**

- All Proposed or existing structures will or do meet the minimum setback and offset requirements for the zone district in which the property is located. Pursuant to the definition of setback in the Weld County Code, the required setback is measured from the future right-of-way line.
- No building or structure as defined and limited to those occupancies listed as Groups A, B, E, F, H, I, M and R in Section 302.1 of the 2006 International Building Code, shall be constructed within a 200 foot radius of any tank battery or 150 foot radius of any wellhead. Any construction within a 20 foot radius of any tank battery or 150 foot radius of any wellhead shall require a variance from the terms of the Section 23-3-10 of the Weld County Code.
- Any future structures or uses on site must obtain the appropriate zoning and building permits.
- Lot A is not eligible for a future land exemption in accordance with Section 24-8-20.C.1 of the Weld County Code.
- WARNING: LOTS MAY NOT BE BUILDABLE DUE TO FLOODPLAIN OR FLOODWAY DESIGNATION. Please be advised that owners of Lot B may not be able to obtain building permits to construct non-agricultural structures. All construction or improvements occurring in the floodplain as delineated on Federal Emergency Management Agency FIRM Community Panel Map 080268-0475 D dated September 22, 1999, shall comply with the Flood Hazard Overlay District requirements of Chapter 23, Article V, Division 3 of the Weld County Code and all applicable FEMA regulations and requirements as described in 44 CFR parts 59 and 60 and 65.
- The installation of any septic system within the 100-year floodplain shall comply with the Weld County I.S.D.S. flood plain policy. In accordance with the State of Colorado I.S.D.S. Regulations, no septic system shall be installed within the floodway.
- Flood hazard development permits will be required for development activities located within the FEMA mapped floodplain. The FEMA definition of development is any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment and materials.
- FEMA's floodplain boundaries may be updated at any time by FEMA. Prior to the start of any development activities, the owner should contact Weld County to determine if the floodplain boundaries have been modified.
- Prior to the release of building permits, the applicant shall submit a recorded deed describing the Lot upon which the building permit is requested with the building permit applications. The legal description of such deed shall include the Lot designation and Recorded Exemption number.
- Prior to the release of building permits, the applicant shall submit evidence to the Department of Planning Services that Lot B has an adequate water supply of sufficient quality, quantity and dependability.
- Prior to the release of building permits, the applicant shall submit evidence of approval from the Eaton Fire Protection District to the Weld County Building Department.
- Should noxious weed exist on the property or become established as a result of the proposed development the applicant/landowner shall be responsible for controlling the noxious weeds, pursuant to Chapter 15, Articles I and II of the Weld County Code.
- Building permits shall be obtained prior to the construction of any buildings. Buildings that meet the definition of an Ag Exempt Building per the requirements of Section 29-1-20 and Section 29-3-20.B.13 of the Weld County Code do not need building permits, however, a Certificate of Compliance must be filed with the Planning Department and an electrical and/or plumbing permit is required for any electrical service to the building or water for watering or washing of livestock or poultry.
- Effective April 25, 2011, Building Permits issued on the proposed lots will be required to adhere to the fee structure of the Weld County Road Impact Program. (Ordinance 2011-2)
- Effective April 25, 2011, Building Permits issued on the proposed lots, will be required to adhere to the fee structure of the County Facility Fee and Drainage Impact Fee. (Ordinance 2011-2)
- Potential Purchasers are hereby notified that a confined animal feeding operation (Amended USR-587 - A Dairy for up to 1,850 cows) is located directly south of the intersection of County Road 72 and approximately 1/4 mile east of County Road 31. Off-site impacts that may be encountered include noise from trucks, tractors and equipment; dust from animal pens and odors from animal confinement, sludge and manure.
- Prior to release of building permits on Lot B, the Lot owner shall verify with the nearest Town/City or Sanitation District to determine the location of the nearest sanitary sewer line. In accordance with the Weld County Code, if a sewer line exists within four hundred (400) feet of the property line and the sewer provider is willing to serve the proposed structure, a septic permit cannot be granted by the Weld County Department of Public Health and Environment. Evidence of such shall be submitted in writing to the Weld County Department of Planning Services.
- WELD COUNTY'S RIGHT TO FARM: Weld County is one of the most productive agricultural counties in the United States, typically ranking in the top ten counties in the country in total market value of agricultural products sold. The rural areas of Weld County may be open and spacious, but they are intensively used for agriculture. Persons moving into a rural area must recognize and accept there are drawbacks, including conflicts with long-standing agricultural practices and a lower level of services than in town. Along with the drawbacks come the incentives which attract urban dwellers to relocate to rural areas: open views, spaciousness, wildlife, lack of city noise and congestion, and the rural atmosphere and way of life. Without neighboring farms, those features which attract urban dwellers to rural Weld County would quickly be gone forever.

Agricultural users of the land should not be expected to change their long-established agricultural practices to accommodate the intrusions of urban users into a rural area. Well-run agricultural activities will generate off-site impacts, including noise from tractors and equipment; slow-moving farm vehicles on rural roads; dust from animal pens, field work, harvest and gravel roads; odor from animal confinement, silage and manure; smoke from ditch burning, flies and mosquitoes; hunting and trapping activities; shooting sports; legal hazing of nuisance wildlife; and the use of pesticides and fertilizers in the fields, including the use of aerial spraying. It is common practice for agricultural producers to utilize an accumulation of agricultural machinery and supplies to assist in their agricultural operations. A concentration of miscellaneous agricultural materials often produces a visual disparity between rural and urban areas of the County. Section 35-3.5-102, C.R.S. provides that an agricultural operation shall not be found to be a public or private nuisance if the agricultural operation alleged to be a nuisance employs methods or practices that are commonly or reasonably associated with agricultural production. Water has been, and continues to be, the lifeline for the agricultural community. It is unrealistic to assume that ditches and reservoirs may simply be moved "out of the way" of residential development. When moving to the County, property owners and residents must realize they cannot take water from irrigation ditches, lakes, or other structures, unless they have an adjudicated right to the water.

Weld County covers a land area of approximately four thousand (4,000) square miles in size (twice the size of the State of Delaware) with more than three thousand seven hundred (3,700) miles of state and County roads outside of municipalities. The sheer magnitude of the area to be served stretches available resources. Law enforcement is based on responses to complaints more than on patrols of the County, and the distances which must be traveled may delay all emergency responses, including law enforcement, ambulance, and fire. Fire protection is usually provided by volunteers who must leave their jobs and families to respond to emergencies. County gravel roads, no matter how often they are bladed, will not provide the same kind of surface expected from a paved road. Snow removal priorities mean that roads from subdivisions to arterials may not be cleared for several days after a major snowstorm. Services in rural areas, in many cases, will not be equivalent to municipal services. Rural dwellers must, by necessity, be more self-sufficient than urban dwellers.

People are exposed to different hazards in the County than in an urban or suburban setting. Farm equipment and all field equipment, ponds and irrigation ditches, electrical power for pumps and center pivot operations, high speed traffic, sand burs, puncture vines, territorial farm dogs and livestock, and open burning present real threats. Controlling children's activities is important, not only for their safety, but also for the protection of the farmer's livelihood.



**VICINITY MAP**  
 (NOT TO SCALE)

**TITLE COMMITMENT NOTE**

This survey does not constitute a title search by King Surveyors Inc. to determine ownership or easements of record. For all information regarding easements, rights-of-way and title of records, King Surveyors Inc. relied upon Title Commitment Number S0035167, dated January 24, 2005, at 8:00 am as prepared by Security Title Guaranty Co. was relied upon to delineate the aforesaid information.

**NOTE**

According to Colorado law, you must commence any legal action based upon any defect in this survey within three years after you discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years after the date of the certificate shown hereon. (13-80-105 C.R.S.)

**SURVEYOR'S CERTIFICATE**

I, Lawrence S. Pepeka, a Registered Professional Land Surveyor in the State of Colorado, do hereby certify that the survey represented by this plat was prepared under my personal supervision, and that this plat is an accurate representation thereof. I further certify that this plat complies with all applicable rules, regulations and laws of the State of Colorado. I am duly licensed and registered with the State Board of Registration for Professional Engineers and Professional Land Surveyors and Weld County.

[Signature] 3642  
 Lawrence S. Pepeka—On Behalf of  
 Colorado Registered Professional  
 Land Surveyor #33642

DATE:	04-02-2012
FILE NAME:	2012020SUB
SCALE:	1" = 100'
DRAWN BY:	BMH
CHECKED BY:	LSP

**KING SURVEYORS, INC.**  
 650 E. Garden Drive | Windsor, Colorado 80550  
 phone: (970) 686-5011 | fax: (970) 686-5821



DATE:	
REVISIONS:	

**RECORDED EXEMPTION**  
 NO. 0805-9-1 RECX11-0045  
 FOR  
 LAWRENCE J. & JO ANN MERRITT  
 6255 WELD COUNTY ROAD 86, FORT COLLINS, CO 80524

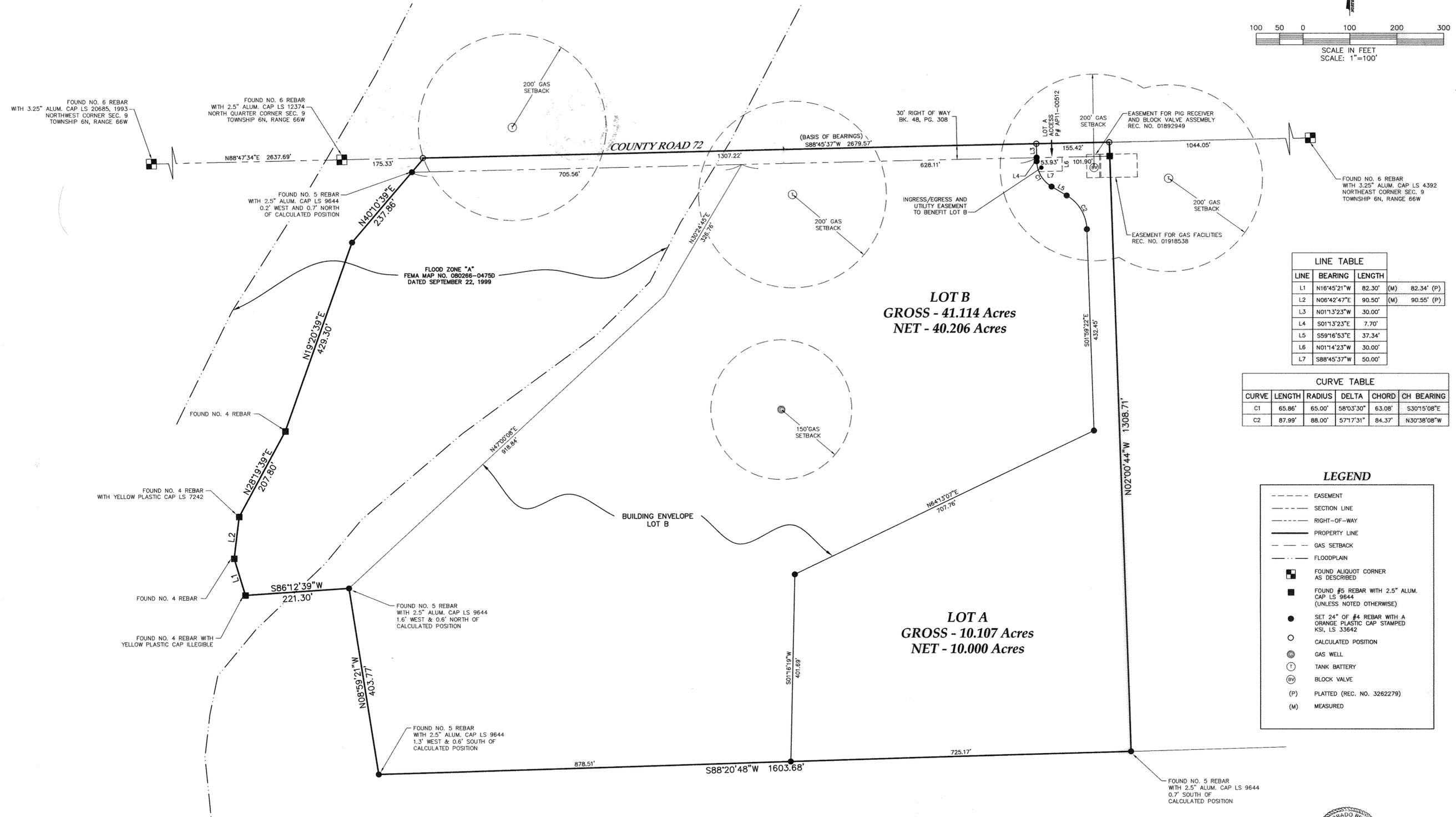
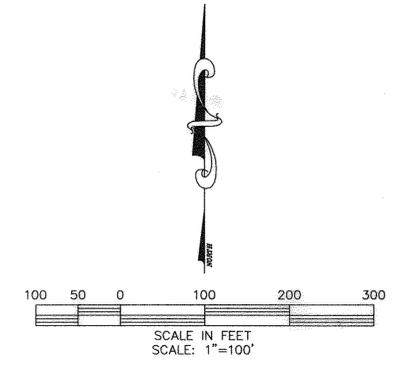
PROJECT #:  
 2012030

3838317 Pages: 2 of 2  
 04/11/2012 04:47 PM R Fee: \$21.00  
 Steve Horvath, Clerk and Recorder, Weld County, CO

# RECORDED EXEMPTION NO. 0805-9-1 RECX11-0045

A Replat of Lot B, Recorded Exemption No. 0805-09-1 RE-2946  
 Being Located in the North Half Of Section 9, Township 6 North, Range 66 West Of The 6th P.M.,  
 County Of Weld, State Of Colorado

DATE:  
 04-02-2012  
 FILE NAME:  
 2012020SUB  
 SCALE:  
 1" = 100'  
 DRAWN BY:  
 BMH  
 CHECKED BY:  
 LSP



**LINE TABLE**

LINE	BEARING	LENGTH	(M)	(P)
L1	N16°45'21"W	82.30'	(M)	82.34' (P)
L2	N06°42'47"E	90.50'	(M)	90.55' (P)
L3	N01°13'23"W	30.00'		
L4	S01°13'23"E	7.70'		
L5	S59°16'53"E	37.34'		
L6	N01°14'23"W	30.00'		
L7	S88°45'37"W	50.00'		

**CURVE TABLE**

CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	65.86'	65.00'	S8°03'30"	63.08'	S30°15'08"E
C2	87.99'	88.00'	S71°7'31"	84.37'	N30°38'08"W

**LEGEND**

- EASEMENT
- - - SECTION LINE
- - - RIGHT-OF-WAY
- PROPERTY LINE
- - - GAS SETBACK
- - - FLOODPLAIN
- FOUND ALIQUOT CORNER AS DESCRIBED
- FOUND #5 REBAR WITH 2.5" ALUM. CAP LS 9644 (UNLESS NOTED OTHERWISE)
- SET 24" OF #4 REBAR WITH AN ORANGE PLASTIC CAP STAMPED KSI, LS 33642
- CALCULATED POSITION
- ⊙ GAS WELL
- ⊙ TANK BATTERY
- ⊙ BLOCK VALVE
- (P) PLATTED (REC. NO. 3262279)
- (M) MEASURED

**KING SURVEYORS, INC.**  
 650 E. Garden Drive | Windsor, Colorado 80550  
 phone: (970) 686-5011 | fax: (970) 686-5821

DATE:  
 REVISIONS:

RECORDED EXEMPTION  
 NO. 0805-9-1 RECX11-0045  
 FOR  
 LAWRENCE J. & JO ANN MERRITT  
 6255 WELD COUNTY ROAD 88, FORT COLLINS, CO 80524

PROJECT #:  
 2012030

**2**  
 SHEET 2 OF 2

*Lawrence S. Papak*  
 Colorado Registered Professional  
 Land Surveyor #33642

