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3811972 12/14/2011 12:14P Weld County, CO
1 of 24 R 126.00 D 0.00 Steve Moreno Clerk & Recorder

RECORDER'S MEMORANDUM
THIS DOCUMENT WAS FOUND
TO BE INADEQUATE FOR
SCANNING PURPOSES.

SURFACE USE AGREEMENT

This Surface Use Agreement (the "Agreement") is entered into this 28TH day of November, 2011, by and between Public Service Company of Colorado ("Surface Owner"), with offices at 1123 West 3rd Avenue, Denver, Colorado 80223, and Kerr-McGee Oil & Gas Onshore LP ("Kerr-McGee"), with offices at 1099 18th Street, #1800, Denver, Colorado 80202.

A. Surface Owner owns the surface estate for property located in Weld County, Colorado, described as THE SOUTHWEST QUARTER of SECTION 27, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6th P.M., referred to hereinafter as the "Land".

B. Surface Owner has constructed improvements on the Land, and anticipates the future construction of additional improvements thereon (the "Improvements"). Together, the Land and the Improvements are referred to herein as the "Property".

C. Kerr-McGee holds the oil and gas leasehold estate in and to the Land along with the right to make reasonable use of the surface of the Land in connection with operations pursuant to that certain Oil and Gas Lease dated December 2, 1970 and recorded in the records of Weld County, Colorado at reception number 1559662 (the "Lease").

D. Kerr-McGee currently operates two oil and gas wells on the Land, known as the Howard 11-27A and the UPRR 42 Pam Am "K" 1 (the "Existing Wells"), and Kerr-McGee also has the right pursuant to the Lease to drill additional wells on the Land, subject to the terms of the Lease and applicable law.

E. Current Colorado Oil and Gas Conservation Commission ("COGCC") rules and regulations allow the owners and/or lessees of the oil and gas that may underlie the Land to locate oil and/or gas wells in five drilling windows in a quarter Section, one in approximately the center of each quarter quarter Section in a 400 foot by 400 foot window (the "Corner Windows") and one in the center of the quarter Section in an 800 foot by 800 foot window (the "Center Window").

F. The parties enter into this Agreement to provide for the coexistence and joint development of the surface estate and the oil and gas leasehold estate and to delineate the process by which they will comply with respect to the development of the two estates.

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

1. Oil and Gas Operations Areas and Surface Facilities.

a. Kerr-McGee shall be entitled to drill and operate new oil and/or gas wells on the Land only within the four Corner Window locations. Kerr-McGee shall also be entitled to conduct operations on the existing well in the NE Corner Window as well as the existing well in the SW corner of the Center Window as depicted on Exhibit A. Such reserved locations are hereinafter referred to as the "Oil and Gas Operations Areas". Except for the Oil and Gas Operations Areas, the Surface Facilities (defined below), the Roads (defined below), the Existing

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Easements (defined below) and the New Flowlines (defined below) as provided in this Agreement, Kerr-McGee shall not occupy the surface of the Land except in the event of an emergency or for reasonable, incidental, temporary, and non-damaging activities. Except as permitted above regarding conducting operations on the existing well in the Center Window, Kerr-McGee shall not have any access or occupation rights to the Center Window and the areas depicted on Exhibit B (the "Prohibited Area"), which areas are currently fenced by Surface Owner. The Prohibited Area may be expanded as future development and construction on the Land by Surface Owner may justify and require, so long as said expansion does not in any way hinder the rights granted to Kerr-McGee herein.

b. Operations and uses within the Oil and Gas Operations Areas may include, but are not limited to, drilling, completion, and maintenance of wells and equipment, production operations, workovers, well recompletions and deepenings, fracturing, and drilling of replacement wells and the location of associated oil and gas production and drilling equipment and facilities. No permanent facilities will be permitted on the Land other than wellheads and other production facilities, all of which will be removed by Kerr-McGee upon cessation of production as to the relevant facility or part thereof.

c. All wells drilled on the Land will bottom hole at locations within the surveyed boundaries of the Land.

d. Kerr-McGee shall continue to have the right to drill wells with attendant facilities within the Oil and Gas Operations Areas and to deepen, recomplete or twin any well that is drilled or has been drilled, to the limit prescribed by current and future COGCC rules and regulations.

e. Tank batteries may be located outside the Oil and Gas Operations Areas in closer proximity to the outer boundaries of the Land at locations mutually agreed upon by the parties hereto.

f. With respect to Kerr-McGee's equipment and facilities other than flowlines or pipelines, Kerr-McGee shall install and maintain, at its sole cost and expense, all fences around the Existing Wells, any future wells, and any other equipment in compliance with the rules and regulations of the COGCC. Kerr-McGee shall also install and maintain, at its sole cost and expense, all gates and locks reasonably necessary for the security of any of its wells, facilities and equipment. Such gates and locks shall be the standard gates and locks used by Kerr-McGee and, at Surface Owner's request, Surface Owner shall be provided with keys to same.

2. Access to Oil and Gas Operations Areas.

a. Kerr-McGee shall access the Oil and Gas Operations Areas solely through the existing access roads depicted on Exhibit C (the "Existing Roads") and the Proposed Roads (defined below). Kerr-McGee shall construct, at its own cost and expense, and prior to any drilling or other activities in the southeast Corner Window, any road necessary to access the proposed well therein (the "Proposed Road"). The Proposed Road and the Existing Roads shall be collectively referred to herein as the "Roads". All access shall be from the boundaries of the Land.



b. The Proposed Road, if constructed, shall be constructed and maintained by Kerr-McGee, no wider than twenty (24) feet, and to at least those state and local standards that apply to oil and gas operations.

c. The Roads that are jointly used by Kerr-McGee and Surface Owner shall be maintained in good condition and repair by Surface Owner, provided however that (i) in the event of any damage caused by Kerr-McGee to a Road, Kerr-McGee shall be responsible for the cost and expense to repair such damage or, at the direction of Surface Owner, Kerr-McGee shall promptly repair any damage to the Road that is a result of Kerr-McGee's specific use of the Road, and (ii) Surface Owner may charge Kerr-McGee a portion of the cost and expense to maintain Roads used by Kerr-McGee based upon the proportionate use of the Roads by Kerr-McGee. The Proposed Road and any Road solely used by Kerr-McGee shall be maintained in good condition and repair by Kerr-McGee at its sole cost and expense.

d. Access may be changed and Roads relocated by mutual agreement of Surface Owner and Kerr-McGee. All costs and expense of such relocations shall be borne by the party requesting same.

e. Surface Owner shall permit access via the Roads to all Oil and Gas Operations Areas. Kerr-McGee shall not park on or otherwise obstruct the Roads at any time, other than for brief periods during the normal course of operations. Neither party shall unreasonably interfere with the use of a Road by the other party.

3. Pipelines, Flowlines, and Pipeline Easements.

a. Kerr-McGee currently owns and operates pipelines and flowlines on the Land pursuant to existing easements. These existing easements and flowlines are located at locations identified on Exhibit D ("Existing Easements"). Kerr-McGee desires to install additional flowlines generally located at locations identified on Exhibit D (the "New Flowlines"). Easements for New Flowlines shall be twenty-five (25) feet in width during construction activities and reduced to fifteen (15) feet in width for all operations and maintenance activities thereafter. All New Flowlines and any new pipelines installed on the Land shall be buried to a minimum depth of forty-eight (48) inches below the surface of the Land. As soon as practicable after installation of a New Flowline, Kerr-McGee shall restore the disturbed surface by adequately compacting and reseeding to a condition, as nearly as possible, as existed prior to such installation. Kerr-McGee shall correct, to Surface Owner's reasonable satisfaction, any erosion issues that arise as a direct result of such surface disturbance.

b. In constructing all New Flowlines, Kerr-McGee shall coordinate with Surface Owner as to the location of Surface Owner's existing flowlines and permissible locations for Kerr-McGee's proposed New Flowlines. Any incremental costs and expenses incurred by Kerr-McGee to account for existing lines shall be borne by Kerr-McGee. Upon completion of construction of any New Flowlines, Kerr-McGee shall provide "as-built" drawings or surveys to Surface Owner showing the location and width of the New Flowlines.

c. Locations of pipelines and easements may be changed by mutual agreement of Surface Owner and Kerr-McGee; provided, however, that all costs and expense of such

relocation shall be borne by the party which requests the relocation. In the event that Surface Owner requests the relocation of a pipeline or flowline, Kerr-McGee shall provide Surface Owner with a written estimate of the relocation costs. If Surface Owner approves and accepts such estimate, Surface Owner shall thereafter promptly remit payment for same to Kerr-McGee. The payment shall be adjusted up or down, based on actual costs, upon completion of the work and after an itemized statement is provided to Surface Owner.

d. If Surface Owner's development plans anticipate that roadways will or may in the future cross over any then-existing Existing Easements or New Flowlines, Surface Owner will pothole or request that Kerr-McGee pothole the Existing Easements or New Flowlines to check the depth thereof. Prior to Surface Owner's installation of a new roadway, Kerr-McGee will lower, as required, the affected Existing Easements or New Flowlines to sufficient depth for the road elevations. Surface Owner agrees to pay Kerr-McGee the reasonable cost of inspection and lowering operations, as well as the reasonable cost of any sub-grade work required to achieve the road construction specifications.

e. Surface Owner shall also have the right to install and maintain easements that are both adjacent to and within the easements identified herein, for utility lines, including those for water, gas, sewer, electricity, telephone, cable television, fiber optic and other pipelines; provided, however:

(i) any new underground facilities that travel along a pipeline easement identified herein shall be located at a distance horizontally of at least ten (10) feet from parallel then-existing pipelines;

(ii) any new underground facilities shall have at least twenty-four (24) inches of vertical clearance between such new facility and a pipeline identified or provided for herein;

(iii) any overhead power lines shall be at least twenty (20) feet above the surface elevation of the ground; and

(iv) all such lines and related pipeline facilities shall otherwise comply with the pipeline guidelines of Kerr-McGee's affiliate attached hereto as Exhibit E.

Kerr-McGee shall be contacted at least ten (10) business days prior to commencement of any trenching or digging activities within ten (10) feet of its easement areas, except in cases of emergency.

4. Waiver of Directional Drilling Payments.

Kerr-McGee hereby waives any right to compensation from Surface Owner for costs to directionally drill wells from surface locations within the Oil and Gas Operations Areas to bottom hole locations that are outside the Oil and Gas Operations Areas, including any rights to have payments made into escrow pursuant to C.R.S. 24-65.5-103.7(1)(b).

5. Surface Damage Payments.

a. Kerr-McGee agrees to pay Surface Owner the sum set forth in the Letter Agreement executed simultaneously herewith (the "Letter Agreement") for each well to be



drilled on the Land (“Damage Payment”). Each Damage Payment is to be made at least ten (10) days prior to the commencement of drilling operations for each such well and is intended to be the full and entire consideration to be paid by Kerr-McGee for the use of the surface of the Land for reasonable and normal oil and gas operations including, but not limited to, drilling, testing, completion, recompletion, reworking, re-entry, pumping, construction, operation, and maintenance of the wells and production facilities located on the Land. With respect to the construction, installation, maintenance, replacement, or removal of access roads, drillsite areas, reserve pits, and production equipment such as flowlines, pipelines, separators, tank batteries, and other facilities necessary or convenient for the production, transportation and sale of oil and gas from the Land, Kerr-McGee may exercise the rights granted by this Agreement at any time without further or additional consideration being payable to Surface Owner.

b. If, by reason of operations conducted by, at the direction of, or with the consent of Kerr-McGee, Surface Owner believes that it has suffered damage to its personal, business, or real property which exceeds that which is associated with reasonable and normal oil and gas operations, as contemplated by Section 5.a hereof, it shall submit a claim for additional damages to Kerr-McGee. If such claim relates to damage caused by Kerr-McGee in excess of the damage that is expected or foreseeable in an oil and gas operation of the type being conducted, or others at its direction or with its consent, to fences, gates, culverts, ditches, structures, or other improvements on the Land or Property, Kerr-McGee shall promptly repair or replace such damaged items or structure or pay Surface Owner therefor.

c. In the event that unharvested crops exist on the Land at the time Kerr-McGee performs work or makes installations on the Land and such crops are damaged, then Kerr-McGee shall compensate Surface Owner for the specific crop damage caused by Kerr-McGee at a rate set forth in the Letter Agreement, but only as to crops that were already planted when Kerr-McGee commences an operation on the Land.

6. Notice of Oil and Gas Operations.

Kerr-McGee shall provide at least fourteen (14) days prior written notice to Surface Owner of any operations in connection with the reworking, fracturing, deepening or recompletion operations on the Existing Wells or any future wells; provided, however, that Kerr-McGee shall provide at least thirty (30) days prior written notice to Surface Owner of the initial drilling of any future wells. Regardless of the foregoing notice requirements, Kerr-McGee shall have immediate access (subject to the prohibition of access through the Prohibited Area) to any of its facilities in the event of an emergency.

7. Limitation of Liability, Release and Indemnity.

a. Kerr-McGee agrees to defend and indemnify Surface Owner against and hold Surface Owner harmless from any and all loss, damage, claims, or liabilities asserted by any third party or governmental agency arising from or in any manner related to operations on the Land conducted by, or at the direction of, or with the consent of Kerr-McGee, its employees, agents or assigns, contractors and subcontractors pursuant to this Agreement, except to the extent any such loss, damage, claim, or liability is caused by the acts or omissions of Surface Owner. Surface Owner agrees to defend and indemnify Kerr-McGee against and hold Kerr-McGee harmless from



any and all loss, damage, claims, or liabilities asserted by any third party or governmental agency arising from or in any manner related to operations on the Land conducted by, at the direction of Surface Owner, its employees, agents or assigns, contractors and subcontractors pursuant to this Agreement, except to the extent any such loss, damage, claim, or liability is caused by the acts or omissions of Kerr-McGee.

b. Except as to claims arising out of pollution or environmental damage (which claims are governed by Section 8 below) or out of other provisions of this Agreement (which claims shall be governed by the terms of this Agreement), each party hereto shall be and remain responsible for its own liability for all losses, claims, damages, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation, attorney's fees and other costs associated therewith (all of the aforesaid herein referred to collectively as "Claims"), arising out of or connected with each such party's ownership or operations on the Land or Property, no matter when asserted, without any party hereto waiving any defenses or limitation of liability based on statutes of limitation. This provision does not, and shall not be construed to, create any rights in persons or entities not a party to this Agreement, nor does it create any separate rights in parties to this Agreement, other than the right to be indemnified for Claims as provided herein. The indemnity and release obligations herein, including for Environmental Claims, shall survive any termination of this Agreement subject to any applicable statutes of limitation.

c. Upon the assignment or conveyance of all or a portion of a party's interest in the Land, that party shall be released from the indemnification requirements set forth in Sections 7.a and 7.b above, for all actions or occurrences after such assignment or conveyance; provided, however, that any such assignment or conveyance shall be made subject to the provisions of this Agreement, and the assignee or grantee therein, whether one or more, shall accept and be responsible for the indemnification requirements herein set forth.

8. Environmental Indemnity.

The provisions of Section 7 above shall not apply to any environmental matters, which shall be governed exclusively by the following:

a. "Environmental Claims" shall mean all requests, demands, inquiries, threats of claim, and claims asserted by governmental bodies or other third parties for pollution or environmental damage of any kind, arising from operations or ownership of the oil and gas interests, whichever is applicable, and all cleanup and remediation costs, fines and penalties associated therewith, including, but not limited to, any Claims arising from Environmental Laws or Hazardous Materials. Environmental Claims shall not include the costs of any remediation undertaken voluntarily by any party, unless such remediation is necessary to mitigate damages that may be incurred with any Environmental Claim, performed in order to comply with applicable Environmental Law, to protect human health or safety or due to an imminent risk of substantial harm to persons or property.

b. "Environmental Laws" shall mean any applicable laws, regulations, rules, ordinances, or order of any governmental authority(ies), which relate to or otherwise impose liability, obligations, or standards with respect to pollution or the protection of the environment, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Resource Conservation



and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.) (“RCRA”), the Clean Water Act (33 U.S.C. Section 466 et seq.), the Safe Drinking Water Act (14 U.S.C. Sections 1401-1450), the Hazardous Material Transportation Act (49 U.S.C. Section 1801 et seq.), the Clean Air Act, and the Toxic Substances Control Act (15 U.S.C. Sections 2601-2629), as may be amended from time to time.

c. Kerr-McGee, its agents, employees, contractors and subcontractors shall not use, generate, store, or dispose of any Hazardous Material that is currently classified as a Hazardous Material under then-current Environmental Law on or under the Land except in full compliance with all Environmental Laws, including, but not limited to, operations pursuant to and in compliance with any exemption under then-applicable Environmental Law that exists for the proper management of exploration and production wastes, such as the current exemption for certain exploration and production wastes under RCRA Subtitle C.

d. Kerr-McGee shall defend, indemnify and hold harmless Surface Owner, its successors and assigns, from Environmental Claims relating to Kerr-McGee's oil and gas interests on and under the Land, or that arise out of or in any manner relate to operations conducted by, at the direction of, or with the consent of Kerr-McGee on the Land. Surface Owner shall defend, indemnify and hold harmless Kerr-McGee from Environmental Claims relating to the Property that arise out of Surface Owner's ownership, operations or development of the Property. To the extent that an exemption under applicable Environmental Law exists for the proper management of exploration and production wastes, as described above, and is applicable to a situation, then Kerr-McGee may raise such exemption as part of its obligations under this Section 8.

e. As used herein, the term “Hazardous Material” means any hazardous solid or toxic substance, material, pollutant or waste, including but not limited to petroleum and petroleum related products, that is or becomes regulated by the State of Colorado or the United States government pursuant to any Environmental Law and which is brought upon and introduced to the Property by Kerr-McGee, or released as a result of Kerr-McGee's activities hereunder, and excludes any such materials that are already present in, on, over, or under the Property prior to access by Kerr-McGee of the Property or its agents, representatives, contractors, or affiliated entities.

9. Exclusion from Indemnities.

The indemnities of the parties herein shall not cover or include any amounts for which the indemnified party is actually reimbursed by any third party. The indemnities in this Agreement shall not relieve any party from any obligations to third parties.

10. Notice of Claim for Indemnification.

If a Claim is asserted against a party for which the other party would be liable under the provisions of Section 7 or Section 8 above, the indemnified party shall use its best efforts to give the indemnifying party written notice of the Claim setting forth all particulars of the Claim, as known by the indemnified party, including a copy of the Claim (if it is a written Claim). The indemnified party shall make a good faith effort to notify the indemnifying party within ten (10)



days of receipt of a Claim and shall provide such notice in all events within such time as will allow the indemnifying party to defend against such Claim. An indemnifying party shall not be obligated to reimburse an indemnified party for amounts paid in a settlement of an indemnified Claim, unless the indemnifying party has agreed to the settlement, which agreement shall not be unreasonably withheld or delayed.

11. Reclamation and Restoration.

At such time as all operations provided for herein by Kerr-McGee, its successors, agents, sublessees and assigns, have permanently ceased, all related equipment has been removed from the Property, the surface of the Property has been restored by Kerr-McGee, its successors or assigns, to as near its original condition as may be practicable as provided for by the rules and regulations of the COGCC, and all claims for damages pursuant to Section 5 hereof have been resolved to the satisfaction of Surface Owner, Surface Owner agrees, for itself, its successors and assigns, to execute a recordable instrument releasing, relinquishing, and discharging Kerr-McGee, its successors and assigns, from all claims and causes of action which may thereafter arise as a result of the operations conducted hereunder. The provisions of Section 8 of this Agreement shall be expressly excepted from any such instrument of release.

12. Compliance with Laws, Rules and Regulations.

Kerr-McGee agrees that any and all operations conducted by or at the direction of Kerr-McGee, or with its consent, pursuant to the terms of this Agreement, shall be in full compliance with all laws, rules and regulations of all local, state and federal governmental agencies and authorities holding jurisdiction as well as Surface Owner's policies and procedures for land management, environmental compliance, safety and security. Notwithstanding the foregoing, Surface Owner shall not have a right of action to compel Kerr-McGee's specific performance with any such law, rule or regulation where no such private right currently exists, but Surface Owner may pursue an action for damages that may otherwise exist at common law or in relation to any damage to property or injury to persons that occur due to non-compliance with such laws, rules and regulations. Further, to the extent delivered to Kerr-McGee in writing, Kerr-McGee shall comply with Surface Owner's reasonable safety and security procedures as to methods of access to the Property, coordination with any security staff, and environmental protection procedures.

13. Authority to Execute Agreement.

Each party hereto represents that it has the full right and authority to enter into this Agreement with respect to the surface rights or oil and gas interests it owns or leases in the Land or Property, as applicable.

14. Compliance with COGCC Notice Requirements.

This Agreement shall constitute written consent of Surface Owner for Kerr-McGee or its assigns to proceed with the drilling, testing, completion, and other related operations on the Land as described herein. This Agreement, at such time, shall also constitute Surface Owner's written acknowledgement that Kerr-McGee has complied with Rules 305.b(1) and 306.a of the COGCC regarding Surface Owner notice and consultation requirements. Surface Owner further expressly



acknowledges that this Agreement shall be deemed to be specifically applicable to and to fully satisfy, the obligation of Kerr-McGee to accommodate Surface Owner's use of the surface of the Land, existing or future, such accommodation being as set forth in the contractual obligations of the parties in this Agreement.

15. Successors and Assigns.

This Agreement and all of the covenants herein shall be binding upon the subsequent lessees and assignees of lessees and the personal representatives, heirs, successors and assigns of the parties, and the benefits of this Agreement shall inure to all of such parties. This Agreement and all of the covenants herein shall be covenants running with the Land. Kerr-McGee acknowledges and consents that Surface Owner may assign its rights and obligations under this Agreement to a homeowners association or special district for the purpose of providing and receiving notices, making payments and enforcing the rights of subsequent owners of the Property under this Agreement. Upon such assignment, Surface Owner shall provide Kerr-McGee with the name, address, and other contact information for the association or district to whom Surface Owner's interest has been assigned.

16. Recording.

Kerr-McGee shall record this Agreement with the Clerk and Recorder of Weld County, State of Colorado, and shall provide Surface Owner with a copy of the recorded Agreement.

17. 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, without reference to its conflicts of laws provisions.

18. Construction.

The parties hereto have participated jointly in the negotiating and drafting of this Agreement. In the event ambiguity of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring either party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including, without limitation.

19. Severability.

If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with such laws; however, the remainder of this Agreement shall be in full force and effect. In the event that any part of this Agreement would otherwise be unenforceable or in conflict with applicable laws due to the term or period for which such part is in effect, the term or period for which such part of this Agreement shall be



in effect shall be limited to the longest period allowable which does not cause such part to be unenforceable or in conflict with applicable laws.

20. Notices.

Any notice or communication required or permitted by this Agreement shall be given in writing either by: (i) personal delivery; (ii) expedited delivery service with proof of delivery; (iii) United States mail, postage prepaid, registered or certified with return receipt requested; or (iv) prepaid telecopy or fax, the receipt of which must be acknowledged, addressed as follows:

Kerr-McGee: Kerr-McGee Oil & Gas Onshore LP
1099 18th Street, Suite 1800
Denver, Colorado 80202
Attn: Surface Land Manager

Surface Owner: Mr. Richard J. Grady, Supervisor
Right of Way & Permits
Public Service Company of Colorado
1123 West 3rd Avenue
Denver, Colorado 80223

Either party may, by written notice as provided in this Section, change the address to which delivery of notices shall be made thereafter.

21. Incorporation by Reference.

Exhibits A, B, C, D, and E are incorporated into this Agreement by this reference.

22. Entire Agreement.

This Agreement sets forth the entire understanding between the parties and supersedes any previous communications, representations or agreements, whether oral or written. No change of any of the terms or conditions herein shall be valid or binding on any party unless in writing and signed by an authorized representative of each party.

23. Counterpart Executions.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

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IN WITNESS WHEREOF, the undersigned parties have caused this Agreement to be executed by a duly authorized representative on the date set forth in the acknowledgement, but to be effective on the date first above written.

Kerr-McGee Oil & Gas Onshore LP

Public Service Company of Colorado

By: [Signature]
Name: David H. Bell
Title: Agent & Attorney-in-Fact

[Handwritten initials]

By: [Signature]
Name: Larry Fuller
Title: Director of Business Operations & Planning
Public Service Company of Colorado, a Colorado corporation

State of Colorado

County of Adams

The foregoing instrument was acknowledged before me this 10th day of Nov, 2011 by David H. Bell as Agent & Attorney-in-Fact of Kerr-McGee Oil & Gas Onshore LP.

[Signature]
(Notary's official signature)
9/27/2015
(Commission expiration date)



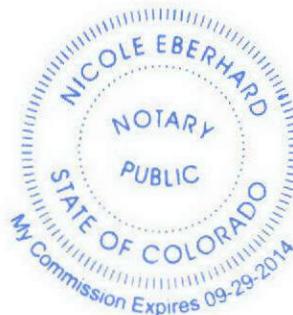
My Commission Expires 9-27-2015

State of Colorado

County of Denver

The foregoing instrument was acknowledged before me this 28th day of November, 2011 by Larry Fuller, the Director of Public Service Company of Colorado, a Colorado corporation, on behalf of the corporation.

[Signature]
(Notary's official signature)
9-29-2014
(Commission expiration date)



My Commission Expires 09-29-2014

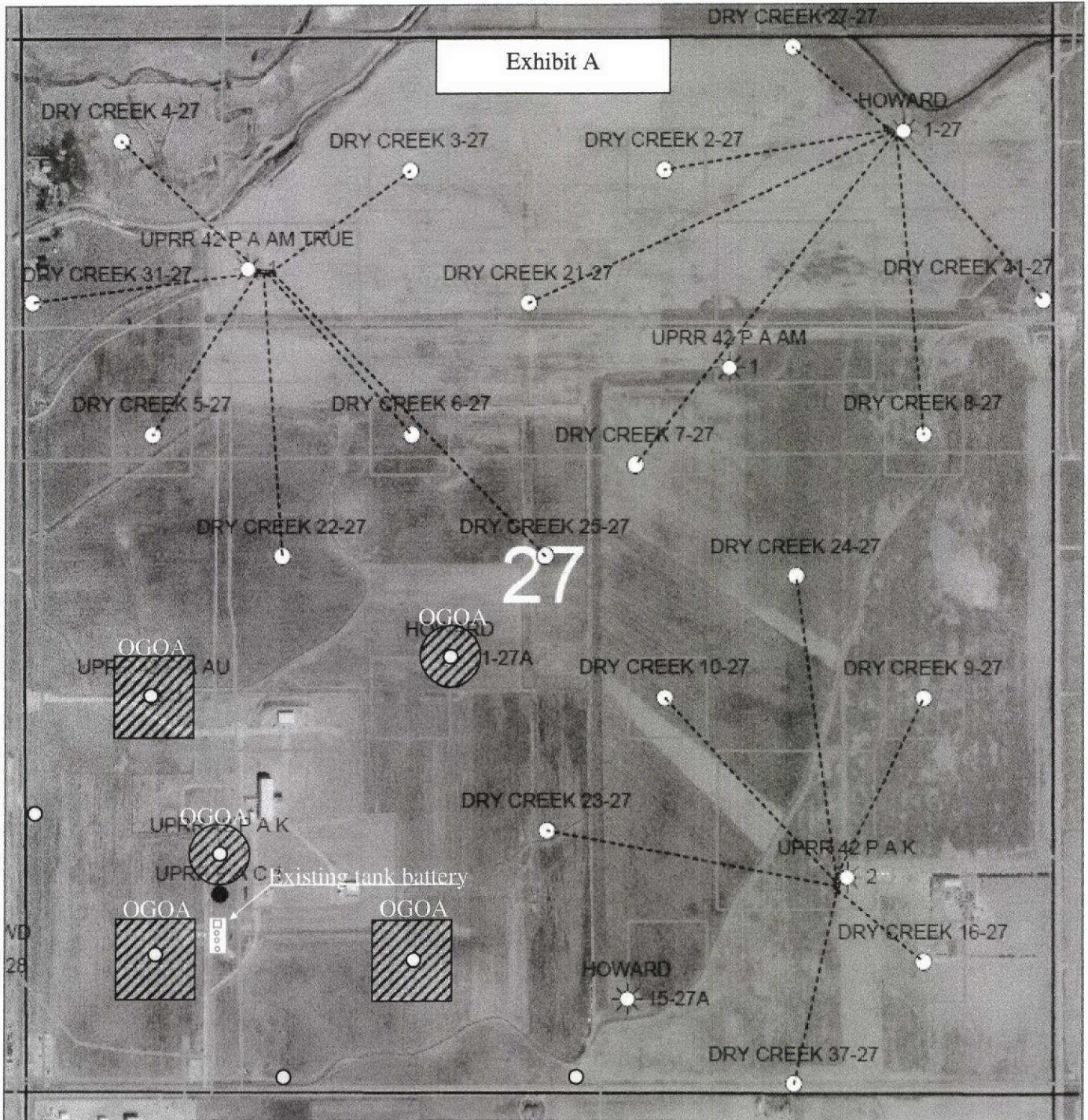


3811972 12/14/2011 12:14P Weld County, CO
12 of 24 R 126.00 D 0.00 Steve Moreno Clerk & Recorder

EXHIBIT A

DEPICTION OF PERMITTED OIL AND GAS OPERATIONS AREA(S)

[depicting the four permitted Corner Windows, the existing battery location, and the bottom hole well locations]



This aerial photo and all notations and depictions thereon is provided as a courtesy and is intended to be used for general reference purposes only. Kerr-McGee/Andarko expressly disclaims any and all representations or warranties regarding the accuracy or the completeness of the information appearing on this aerial photo and any reliance on it for any purpose whatsoever is at the sole risk of the party so relying.



-  Access Road
-  KMG Gathering Line
-  Duke Pipeline
-  RGS Pipeline
-  Proposed Flowline
-  Legal Drilling Window
-  Exist Battery Location
-  New Battery Location
-  Proposed Wellhead
-  Bottomhole Location
-  Potential Drill Sites



**Aerial Photo
Sec. 27-1N-67W
Weld County, CO**

Author:
Teddy Ruampant

Edited By:
Dave Haertel

Last Edited:
2/14/2011



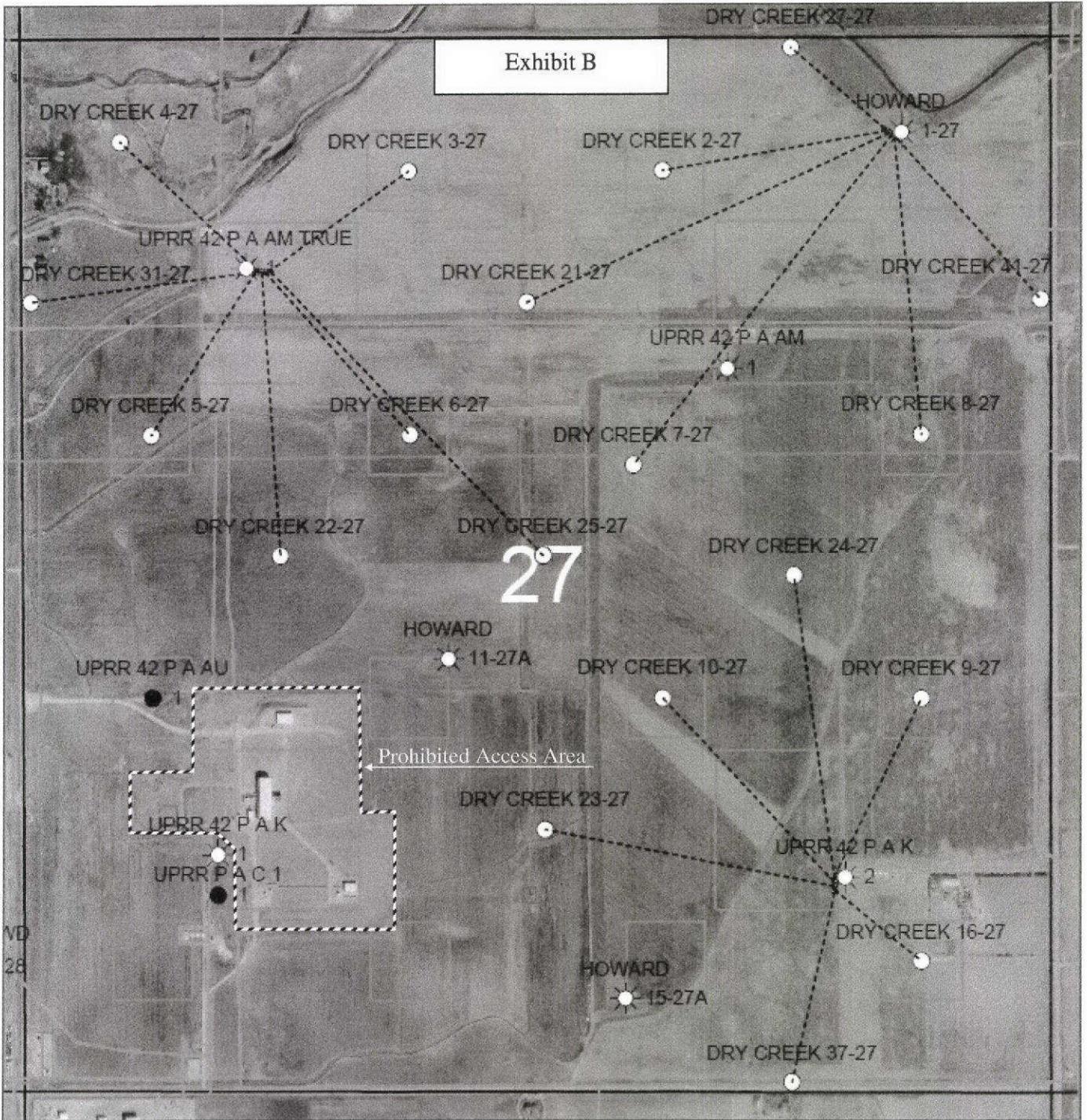


3811972 12/14/2011 12:14P Weld County, CO
14 of 24 R 126.00 D 0.00 Steve Moreno Clerk & Recorder

EXHIBIT B

PROHIBITED ACCESS AREA

[depicting the fenced area of the PSC site]



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- Access Road
- KMG Gathering Line
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**Aerial Photo
Sec. 27-1N-67W
Weld County, CO**

Author: Teddy Ruampant	Edited By: Dave Haertel	Last Edited: 2/14/2011
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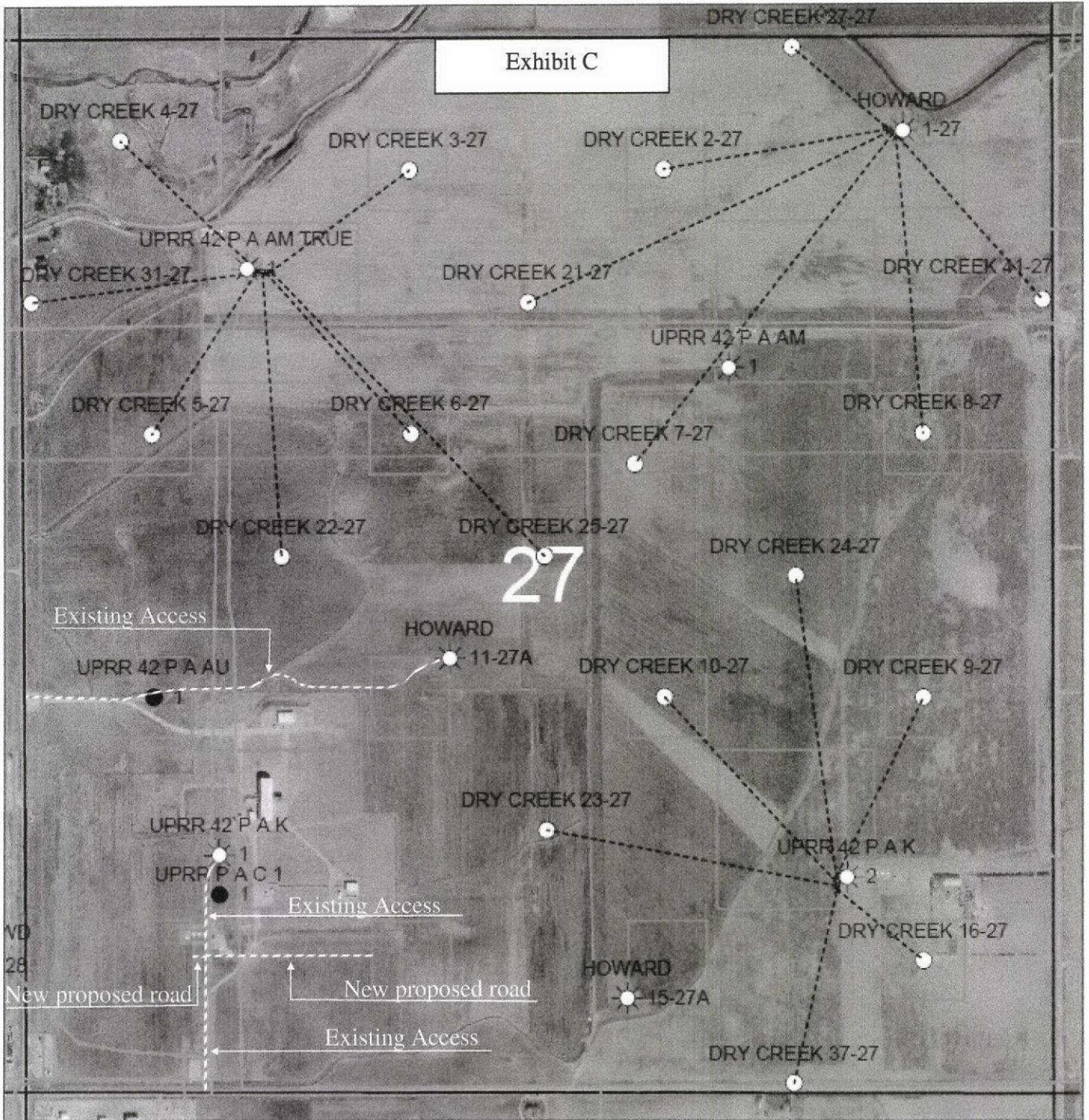


3811972 12/14/2011 12:14P Weld County, CO
16 of 24 R 126.00 D 0.00 Steve Moreno Clerk & Recorder

EXHIBIT C

ROADS

[depicting the existing access roads and the new proposed road]



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- Access Road
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- Bottomhole Location
- Potential Drill Sites



**Aerial Photo
Sec. 27-1N-67W
Weld County, CO**

Author:
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Last Edited:
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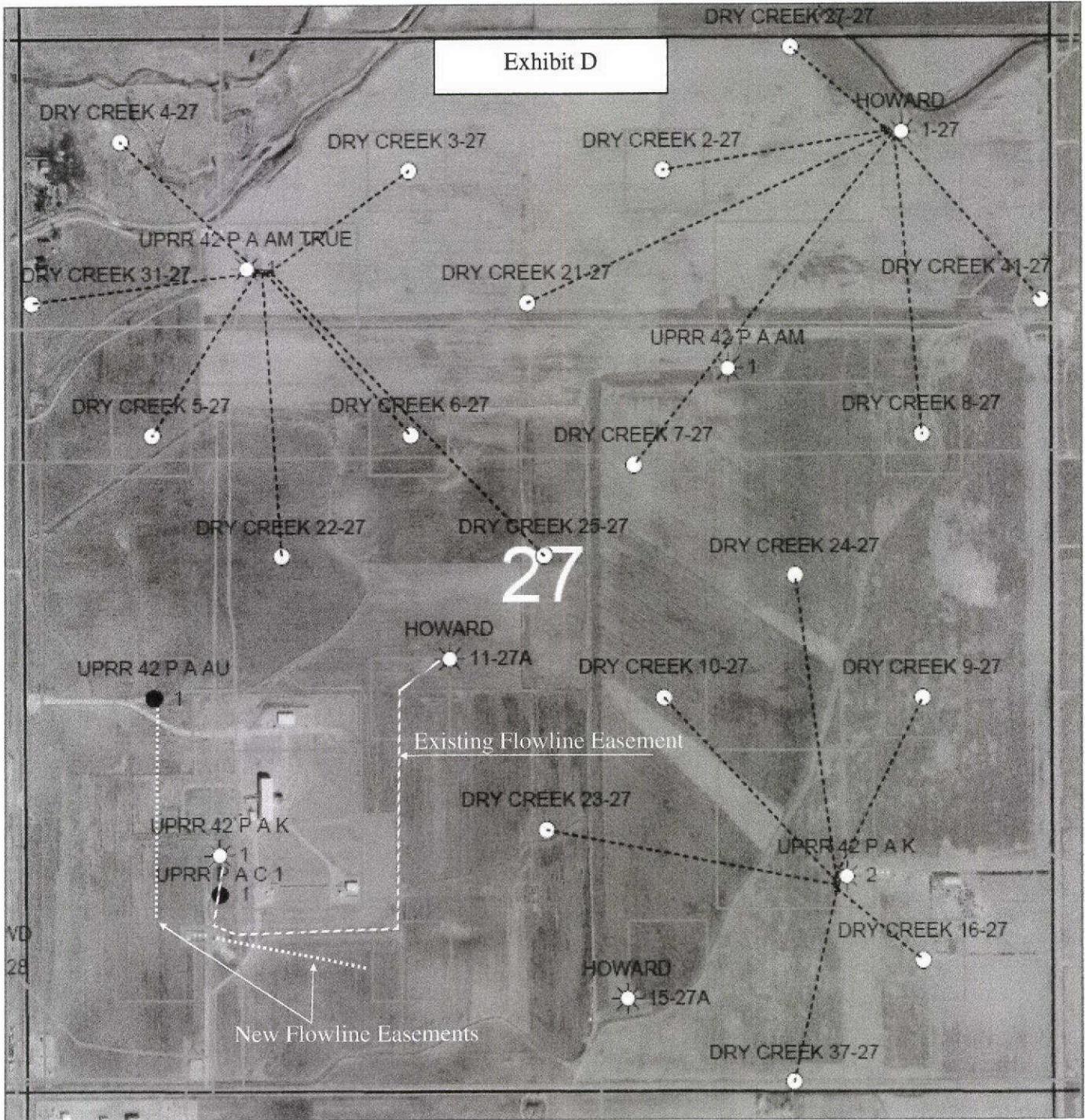




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EXHIBIT D

EXISTING FLOWLINE EASEMENTS AND FUTURE FLOWLINES



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-  Existing Flowline
-  KMG Gathering Line
-  Duke Pipeline
-  RGSJ Pipeline
-  Proposed Flowline
-  Legal Drilling Window
-  Exist Battery Location
-  New Battery Location
-  Proposed Wellhead
-  Bottomhole Location
-  Potential Drill Sites

		
Aerial Photo Sec. 27-1N-67W Weld County, CO		
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EXHIBIT E

KMGG PIPELINE GUIDELINES



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EXHIBIT E



General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC Pipelines and Related Facilities

This list of design, construction and contractor requirements, including but not limited to the following, is for the design and installation of foreign utilities or improvements on Kerr McGee Gathering LLC (KMGG) right-of-way (ROW). These are not intended to, nor do they waive or modify any rights KMGG may have under existing easements or ROW agreements. For information regarding KMGG's rights and requirements as they pertain to the existing easements, please reference existing easements and amendments documents. This list of requirements is applicable for KMGG facilities on easements and in road rights of ways only. Encroachments on fee property should be referred to the Land & ROW Department. Any reference to KMGG in the below requirements is meant to include and apply to any Kerr McGee entity.

Design

- KMGG shall be provided sufficient prior notice of planned activities involving excavation, blasting, or any type of construction on KMGG's ROW or near its facilities. This is to determine and resolve any location, grade or encroachment problems and allow for the protection of KMGG's facilities and the general public. This prior notification is to be made **before** the actual work is to take place.
- The encroaching entity shall provide KMGG with a set of drawings for review and a set of final construction drawings showing all aspects of the proposed facilities in the vicinity of KMGG's ROW. The encroaching entity shall also provide a set of "as-built drawings" and submit to KMGG, showing the facilities in the vicinity of KMGG's ROW upon completion of the work.
- Only facilities shown on drawings reviewed by KMGG will be approved for installation on KMGG's ROW. All drawing revisions that affect facilities proposed to be placed on KMGG's ROW must be approved by KMGG in writing.
- KMGG shall approve the design of all permanent road crossings.
- Any repair to surface facilities following future pipeline maintenance or repair work by KMGG on its "prior rights" ROW will be at the expense of the developer or landowner. In addition, any repair to surface facilities following future pipeline maintenance or repair work by KMGG on replacement ROW granted to relocate KMGG facilities will also be done at the expense of the developer or landowner unless expressly addressed in surface use agreements and approved in writing by KMGG.
- The depth of cover over the KMGG pipelines shall not be increased or reduced nor surface modified for drainage without KMGG's written approval.
- Construction of any permanent structure within KMGG pipeline easement is **not** permitted without written approval by KMGG.
- Planting of shrubs and trees is not permitted on KMGG pipeline easement without written approval by KMGG.
- Irrigation equipment i.e. backflow prevent devices, meters, valves, valve boxes, etc. shall not be located on KMGG easement without written approval by KMGG.
- Foreign utility installations, i.e., distribution gas, oil and gas gathering, water, electric, telephone, cable and sewer lines, etc., may cross perpendicular to KMGG's pipeline within the ROW, provided that a minimum of eighteen inches (18") of vertical clearance is maintained between KMGG pipeline(s) and the foreign utility. Any installation by a foreign utility with less than 18" of vertical separation is not allowed without written approval by KMGG. In no case will vertical separation be less than 12". Constant line elevations must be maintained across KMGG's entire ROW width, gravity drain lines are the only exception and must be approved in writing. Foreign line crossings below the KMGG pipeline must be evaluated by KMGG to ensure that a significant length of the KMGG line is not exposed and unsupported during construction. Foreign line crossings above the KMGG pipeline with less than 18" of clearance must be evaluated by KMGG to ensure that additional support is not necessary to prevent settling on top of the KMGG natural gas pipeline. A KMGG representative must be on site during any crossing activities to verify clearance depths and to assure the integrity and support of the KMGG facility. All installations of foreign crossings done by boring and or jacking require the KMGG facility to be exposed to verify clearances.





General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC Pipelines and Related Facilities

- Foreign utilities shall not run parallel to KMGG pipelines within the KMGG easement without written permission by KMGG. A minimum of 10 feet of horizontal separation must be maintained in parallel installations whether the foreign utility is placed within the KMGG easement or adjacent to the KMGG easement. Any deviation from the 10' horizontal requirement must be approved in writing by KMGG and an "as built survey" provided to KMGG after installation. In the instance that high voltage electric lines, greater than 20kV, are installed parallel to a KMGG pipeline a minimum horizontal distance of 15' must be maintained.
- The foreign utility should be advised that KMGG maintains cathodic protection on its pipelines and facilities. The foreign utility must coordinate their cathodic protection system with KMGG's. At the request of KMGG, foreign utilities shall install (or allow to be installed) cathodic protection test leads at all crossings for the purposes of monitoring cathodic protection interference. The KMGG CP technician and the foreign utility CP technician shall perform post construction CP interference testing. Interference issues shall be resolved by mutual agreement between foreign utility and KMGG. All costs associated with the correction of cathodic protection interference issues on KMGG pipelines as a result of the foreign utility crossing shall be borne by the foreign utility for a period of one year from date the foreign utility is put in service.
- The developer shall understand that KMGG, whether specifically required per federal law or by company standard, will mark the routing of its underground facilities with aboveground pipeline markers and test leads and maintain those markers and test leads. Markers will be installed at every point the pipeline route changes direction and adequate markers will be installed on straight sections of pipeline to insure, in the sole opinion of KMGG, the safety of the public, contractor, KMGG personnel and KMGG facilities.
- On all foreign utility crossings and / or encroachments, metallic foreign lines shall be coated with a suitable pipe coating for a distance of at least 10 feet on either side of the crossing.
- AC Electrical lines must be installed in conduit and properly insulated.
- On all foreign pipelines, DOT approved pipeline markers shall be installed so as to indicate the route of the foreign pipeline across the KMGG ROW.
- No power poles, light standards, etc. shall be installed in the KMGG easement without written approval by KMGG.
- KMGG installs above ground appurtenances at various locations that are used in the operation of its facilities. Kerr McGee will install protective enclosures at the above ground appurtenances to protect them from outside damage. The design and placement of these above ground appurtenances and protective enclosures is done at KMGG's sole discretion, and may exceed any regulatory requirements.

Construction

- If KMGG will be relocating KMGG facilities for any entity, grading in the new KMGG ROW shall be +/- 6 inches before KMGG will mobilize to complete the relocation. Final cover after the completion of the project will not be manipulated by the requesting entity to be less than 48" nor more than 72". All cover that exceeds 72" or less than 48" will be approved in writing by KMGG. This does not preclude KMGG from installing the pipeline at a minimum cover of 36" as provided for in CFR 49 Part 192. Cover during all construction activities will NEVER be less than 36" unless approved in writing and a KMGG representative is on site during the time cover is reduced.
- The entity requesting relocation shall survey top of pipe after installation but before backfill to determine proper final elevation of KMGG facilities. The entity requesting relocation is solely responsible for the final depth of cover over the relocated KMGG facility. Any deviation from cover requirements as outlined above will be corrected at the sole expense of the entity requesting relocation.
- Contractors shall be advised of KMGG's requirements and be contractually obligated to comply.
- The continued integrity of KMGG's pipelines and the safety of all individuals in the area of proposed work near KMGG's facilities are of the utmost importance. Therefore, contractor must meet with KMGG representatives prior to construction to provide and receive notification listings for appropriate area operations and emergency personnel. **KMGG's on-site representative will require discontinuation of any work that, in his or her opinion, endangers the operations or safety of personnel, pipelines or facilities.**



General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC Pipelines and Related Facilities

- The Contractor must expose all KMGG pipelines prior to crossing to determine the exact alignment and depth of the lines. A KMGG representative must be present.
- The use of probing rods for pipeline locating shall be performed by KMGG representatives only, to prevent unnecessary damage to the pipeline coating. A KMGG representative shall do all line locating.
- Notification shall be given to KMGG at least 72 hours before start of construction. A schedule of activities for the duration of the project must be made available at that time to facilitate the scheduling of KMGG's work site representative. Any Contractor schedule changes shall be provided to KMGG immediately.
- Heavy equipment will not be allowed to operate directly over KMGG pipelines or in KMGG ROW unless written approval is obtained from KMGG. Heavy equipment shall only be allowed to cross KMGG pipelines at locations designated by KMGG. Haul roads will be constructed at all crossings. The haul roads will be constructed using lightweight equipment. The existing depth of cover over the pipeline must be verified. Cover will be added such that a total of 8' of fill exists over the pipeline and extends a minimum of 10' on each side of the pipeline. Depth of cover will then taper as required for equipment access. Steel plates may be used for load dissipation only if approved in writing by KMGG.
- Contractor shall comply with all precautionary measures required by KMGG, at its sole discretion to protect its pipelines. When inclement weather exists, provisions must be made to compensate for soil displacement due to subsidence of tires.
- Excavating or grading which might result in erosion or which could render the KMGG ROW inaccessible shall not be permitted unless the contractor agrees to restore the area to its original condition and provide protection to KMGG's facility. At no time will cover be reduced to less than 36" without written approval by KMGG and a KMGG representative on site.
- A KMGG representative shall be notified prior to construction activities within twenty-five (25) feet of a KMGG pipeline or above ground appurtenance. The contractor **shall not** be allowed to work within twenty-five (25) feet of KMGG facilities without approval from the KMGG representative. The KMGG representative may or may not remain on site during the entire construction activity. Contractor shall use extreme caution and take appropriate measures to protect KMGG facilities. The contractor shall call the KMGG representative prior to backfilling around the KMGG facility to allow for a final inspection of the KMGG facility.
- Ripping is only allowed when the position of the pipe is known and not within ten (10) feet of KMGG facility. KMGG personnel must be present.
- Temporary support of any exposed KMGG pipeline by Contractor may be necessary if required by KMGG's on-site representative. Backfill below the exposed lines and 12" above the lines shall be replaced with sand or other selected material as approved by KMGG's on-site representative and thoroughly compacted in 12" lifts to 95% of standard proctor dry density minimum or as approved by KMGG's on-site representative. This is to adequately protect against stresses that may be caused by the settling of the pipeline.
- No blasting shall be allowed within 1000 feet of KMGG's facilities unless blasting notification is given to KMGG Including complete Blasting Plan Data. A pre-blast meeting shall be conducted by the organization responsible for blasting.
- KMGG shall be indemnified and held harmless from any loss, cost of liability for personal injuries received, death caused or property damage suffered or sustained by any person resulting from any blasting operations undertaken within 500 feet of its facilities. The organization responsible for blasting shall be liable for any and all damages caused to KMGG's facilities as a result of their activities whether or not KMGG representatives are present. KMGG shall have a signed and executed Blasting Indemnification Agreement before authorized permission to blast can be given.
- No blasting shall be allowed within 200 feet of KMGG's facilities unless blasting notification is given to KMGG a minimum of one week before blasting. The organization responsible for blasting must complete Blasting Plan Data. KMGG shall review and analyze the blasting methods. A written blasting plan shall be provided by the organization responsible for blasting and agreed to in writing by KMGG. A written emergency plan shall be provided by the organization responsible for blasting.
- KMGG shall have a signed and executed Blasting Indemnification Agreement before authorized permission to blast can be given. A pre-blast meeting shall be conducted by the organization responsible for blasting.





General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC Pipelines and Related Facilities

- ♦ Any contact with any KMGG facility, pipeline, valve set, etc. shall be reported immediately to KMGG. If repairs to the pipe are necessary, they will be made and inspected before the section is re-coated and the line is back-filled.
- ♦ KMGG personnel shall install all test leads on KMGG facilities.

Local Kerr-McGee Gathering LLC Representation:

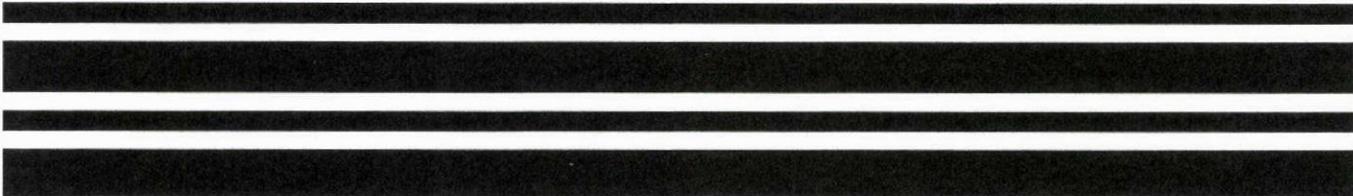
Operations Manager	Kevin Osif, P.E.	Phone: (303) 655-4307
Staff Engineer:	Joseph E. Sanchez, P.E.	Phone: (303) 655-4319
Pipeline Foreman:	James Phillips	Phone: (303) 655-4343
Construction Foreman:	Jim McQuiston	Phone: (303) 655-4326
Construction Supervisor	Darrel Gentry	Phone: (303) 655-4326

Emergency Contacts:

On call supervisor	Phone: (303) 559-4001
Kerr McGee 24 hour emergency number	Phone: (303) 659-5922
One Call Emergency	Phone: 811



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Land >> Lease >> Lease



D0002021135

Sender Name: Brandon Wathke
 Date Created: 10/04/2012
 Barcode Expires: **11/03/2012**
 Department: Land Record
 Security: Non-Privileged

COLOR DOCUMENT *DNV.EPX33434*

Attribute	Value
Description	SURFACE USE AGREEMENT
Document Date	11/28/2011
Lease Document Type	Original Lease
New Lease Packet	No
New Well Handoff	No
Lease Number Suffix	CO-S00059470
File Key	2185491
Group Code	LSE
Lease End Date	12/31/2099
Lessor Name	PUBLIC SERVICE COMPANY OF COLORADO
Prospect Name	WATTENBERG E&P / UPSTREAM SURFACE (KMG)/A-43100256
State County	COLORADO:WELD(123)

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