

**EASEMENT, RIGHT-OF-WAY  
and  
SURFACE USE AGREEMENT**

This Easement, Right-of-Way and Surface Use Agreement ("Agreement") is entered into as of May 15, 2013, by and between Berry Farms, LLC, ("Surface Owner"), whose address is 2195 Chantala Lane, Pueblo, CO 81006, and Kerr-McGee Oil & Gas Onshore LP, ("KMG"), with offices at 1099 18<sup>th</sup> St., Suite 1800, Denver, CO 80202, covering certain lands (the "Lands") situated in Weld County, Colorado, described as follows:

Township 3N, Range 67W, of the 6<sup>th</sup> P.M.  
Section 8: NE/4

For and in consideration of the sum of ten dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agrees to the terms and provisions set forth as follows:

1. Compensation for Operations; Release of All Claims

KMG shall pay to Surface Owner the sum and perform the obligations set forth in and according to the terms of that certain Letter Agreement by and between Surface Owner and KMG of even date, as full consideration and final settlement and satisfaction for any and all detriment, depreciation, injury or damage of any nature to the Lands or growing crops thereon that may occur as a result of KMG drilling and completion operations on the Lands, and its continuing activities for the production and/or transportation of oil, gas, or other hydrocarbons or products associated with such operations and activities including, but not limited to, surface use, access, mud and reserve pits, wellhead equipment, separators, tank batteries, pipelines, gathering lines, flowlines, pipeline interconnections, and any and all other reasonable and customary uses of land related to said operations or activities.

2. Acknowledgement of Right of Way and Easement

Surface Owner acknowledges and understands that KMG, as owner or lessee of the oil and gas estate for the Lands, owns an easement and right-of-way that burdens the Lands, and that KMG has a continuing right and entitlement to construct, own, operate, maintain, repair and replace all flowlines, gathering lines, other pipelines and related equipment that may be necessary or convenient to its operations on the Lands, including but not limited to, constructing, using and maintaining access roads, locations for surface equipment and subsurface gathering lines, pipelines and pipeline interconnections for its operations and activities; provided, however, KMG agrees that it will not construct pipelines in a manner that interferes with existing improvements on the Lands at the time the pipelines are proposed to be constructed.

Surface Owner further agrees that, Kerr-McGee Gathering LLC, an affiliate of KMG, or another third party gas gatherer designated by KMG, may exercise the easement rights described herein.

3. Waivers

Surface Owner hereby waives its right to and covenants not to protest or object to the use of the surface of the Lands so long as such use is consistent with this Agreement. Furthermore, Surface Owner will provide KMG or its successors and assigns with any and all written support they may reasonably require to obtain permits from the Colorado Oil and Gas Conservation Commission or any local jurisdiction.

4. Binding Agreement

This Agreement shall be binding upon the respective heirs, executors, administrators, successors, and assigns of the parties hereto.

The undersigned have executed this Agreement as of the day first above written.

Berry Farms, LLC

*Berry Farms LLC*  
By: *Charlene L. Garrett*  
Name: Charlene L. Garrett  
Its: Manager

Kerr-McGee Oil & Gas Onshore LP

By: *[Signature]*  
David Bell  
Agent & Attorney-in-Fact *90M*

STATE OF Colorado )  
 )ss  
COUNTY OF Pueblo )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2013, by Charlene L. Garrett as Manager for Berry Farms, LLC.

Witness my hand and official seal.

Lori J. McIntyre  
Notary Public 

My commission expires My Commission expires February 2, 2014  
**2662 N. Freeway**  
**Pueblo, Colorado 81003**

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STATE OF Colorado )  
 )ss  
COUNTY OF Weld )

This instrument was acknowledged before me this 15<sup>th</sup> day of May, 2013, by David Bell, Agent & Attorney-in-Fact of Kerr-McGee Oil & Gas Onshore LP, on behalf of said company.

Witness my hand and official seal.

Justin Shoulders  
Notary Public

My commission expires May 4<sup>th</sup>, 2016

**JUSTIN SHOULDERS**  
NOTARY PUBLIC, STATE OF COLORADO  
My Comm. Expires May 4, 2016