

**SURFACE USE AGREEMENT AND  
EASEMENT AND RIGHT-OF-WAY GRANT**

**This Surface Use Agreement and Easement and Right-of-Way Grant ("Agreement")** is effective as of July 20, 2013 ("Effective Date"), by and between Jacob Kerbs and Ellen Kerbs, in their capacity as Co-Trustees of the **Jacob and Ellen Kerbs Living Trust**, the Trust being hereinafter referred to as the "Surface Owner" and having an address of 5500 County Road 34, Platteville, Colorado 80651 and **Kerr-McGee Oil & Gas Onshore LP** ("Kerr-McGee") with offices at 1099 18th Street, Suite 1800, Denver, Colorado 80202, covering the real property necessary for oil and gas development and production related to operations and facilities at the approximate locations depicted on Exhibit A and located on the lands ("Lands") situated in Weld County, Colorado, described as follows:

**Township 3 North, Range 68 West of the 6<sup>th</sup> P.M.**

**Section 13: part of the NE/4, identified as lot B amended recorded exemption  
AMDRE - 3776**

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 agree to the terms and provisions set forth as follows:

**1. Grant of Right of Way and Surface Easement**

a. Surface Owner agrees that Kerr-McGee may locate six (6) oil and/or gas wells ("Wells") and production facilities in the approximate locations depicted on the attached Exhibit A. Surface Owner hereby grants, bargains, sells, assigns and conveys to Kerr-McGee an easement and right-of-way across the Lands for purposes of constructing, using and maintaining the Wells, access roads, locations for surface and subsurface equipment and subsurface flowlines, gathering lines, electric and water lines and also electric poles and other ancillary equipment for the Wells, and for pipelines and pipeline interconnections for the period beginning from the date of commencement of surface activities for drilling operations and so long thereafter as oil or gas is produced or capable of being produced from any such Well.

b. The approximate locations of the Wells, production facilities, flowlines, and access routes are depicted on Exhibit A and pipeline easements shall be at locations on the Lands selected by Kerr-McGee, all such areas for oil and gas operations being the subject of the easement and right-of-way grant in subparagraph 1.a.

c. Surface Owner further agrees that Kerr-McGee Gathering LLC ("KMGG"), an affiliate of Kerr-McGee, or other third party gas gatherer designated by Kerr-McGee, may exercise the easement rights for pipelines and pipeline interconnections as described herein, and that Surface Owner shall provide KMGG, or other gas gatherer designated by Kerr-McGee, with a right-of-way grant for the pipeline easements at the request of Kerr-McGee and in the form attached as Exhibit B.

d. In furtherance of the terms and conditions in this Agreement, Surface Owner shall not plat any surface property lines or install or construct fences, roadways, trees, bushes or any other permanent or temporary buildings, structures or improvements that would obstruct access to the Wells, production facilities and pipeline easements or interfere with the oil and gas operations provided for herein.

2. **Grant of Subsurface Easement.**

a. Surface Owner further grants and conveys to Kerr-McGee a subsurface easement on and through the Lands for the purpose of allowing Kerr-McGee to drill the Wells using horizontal or directional drilling technology to bottom hole and/or lateral locations located on the Lands and property other than the Lands, including the N/2 and SW/4 of Section 13 and the N/2 of Section 14, Township 3 North, Range 68 West.

b. It is further agreed that Kerr-McGee may drill, complete, operate, produce, maintain, redrill, recompleat and conduct all other operations necessary or convenient for the Wells, to the part of the NE/4 of Section 13, more specifically identified as lot B amended recorded exemption AMDRE – 3776, Township 3 North, Range 68 West.

c. Surface Owner further agrees that production from the Wells may be stored in production facilities located on the Lands within the Production Facility Location depicted on Exhibit A and as otherwise provided herein. The rights granted hereby include the construction, operation, maintenance, repair and replacement of oil and gas production facilities.

3. **Waiver of Setback Requirements.**

Surface Owner understands and acknowledges that the COGCC has 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. Surface Owner hereby waives all setback requirements in COGCC Rules 603 and 604, including the high density rules and all Exception Zone setbacks, and any rule or regulation or successor rule or amendment to the COGCC setback rules, and to any other state or local setback requirements or other requirements or regulations that are or become inconsistent with this Agreement or that would prohibit or interfere with the rights granted to Kerr-McGee hereunder, or its successors and/or assigns, to explore for and produce the oil and gas in accordance with this Agreement. Surface Owner understands that Kerr-McGee may cite the waiver in this paragraph 3 in order to obtain a location exception or variance under COGCC rules or from a local jurisdiction.

4. **Governmental Proceedings.**

Surface Owner agrees: i) it will not object in any forum to the use by Kerr-McGee of the surface of the Lands consistent with this Agreement and hereby waives any such right to object; ii) it will provide such other written approvals and waivers that are requested by Kerr-McGee and consistent with this Agreement, including, but not limited to, all approvals and waivers to drill a

well or to conduct oil and gas operations on the Lands because of any law or regulation; and iii) it waives any rights it has to request that conditions be attached to a permit to drill.

5. **Compensation for Well; Release of All Claims**

Kerr-McGee shall pay to Surface Owner the sums set forth in and according to the terms of that certain Letter Agreement by and between Surface Owner and Kerr-McGee dated contemporaneously with this Agreement, as full 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 Kerr-McGee drilling or completion operations or its continuing activities for the production or transportation of oil, gas, or other hydrocarbons or products associated with the foregoing including, but not limited to, surface use, access, mud and reserve pits, wellhead equipment, separators, tank batteries, pipelines, electric lines, water lines, gathering lines, flowlines, pipeline interconnections, and any and all other reasonable or customary uses of land related to said operations or activities.

6. **Counterpart Execution.**

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

7. **Recording of Agreement.**

Kerr-McGee shall record this Agreement with the Weld County Clerk and Recorder and provide Surface Owner with a copy of the recorded Agreement as soon as practicable thereafter.

8. **No Limitation of Rights.**

Nothing in this Agreement limits the rights that Kerr-McGee or KMGG may have or may acquire in the future to explore for and produce oil and gas from the Lands or affects any easements or rights-of-way that KMGG currently has in place on the Lands.

9. **Binding on Successors and Assigns/ Covenant Running with the Lands.**

This Agreement shall be binding upon the respective heirs, executors, administrators, successors and assigns of the undersigned and shall be a covenant running with the Lands.

10. **Incorporation of Exhibits.**

Exhibits A and B are incorporated herein by this reference.



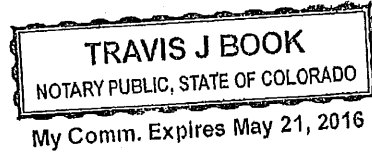
STATE OF COLORADO )  
 )ss  
COUNTY OF WELD )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of July, 2013, by Ellen Kerbs, as Co-Trustee of the **Jacob and Ellen Kerbs Living Trust**.

Witness my hand and official seal.

[Signature]  
Notary Public

My commission expires May 21<sup>st</sup> 2016



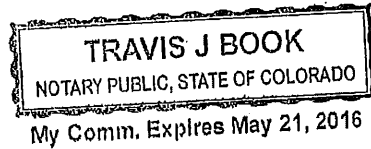
STATE OF COLORADO )  
 )ss  
COUNTY OF WELD )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of July, 2013, by Jacob Kerbs, as Co-Trustee of the **Jacob and Ellen Kerbs Living Trust**.

Witness my hand and official seal.

[Signature]  
Notary Public

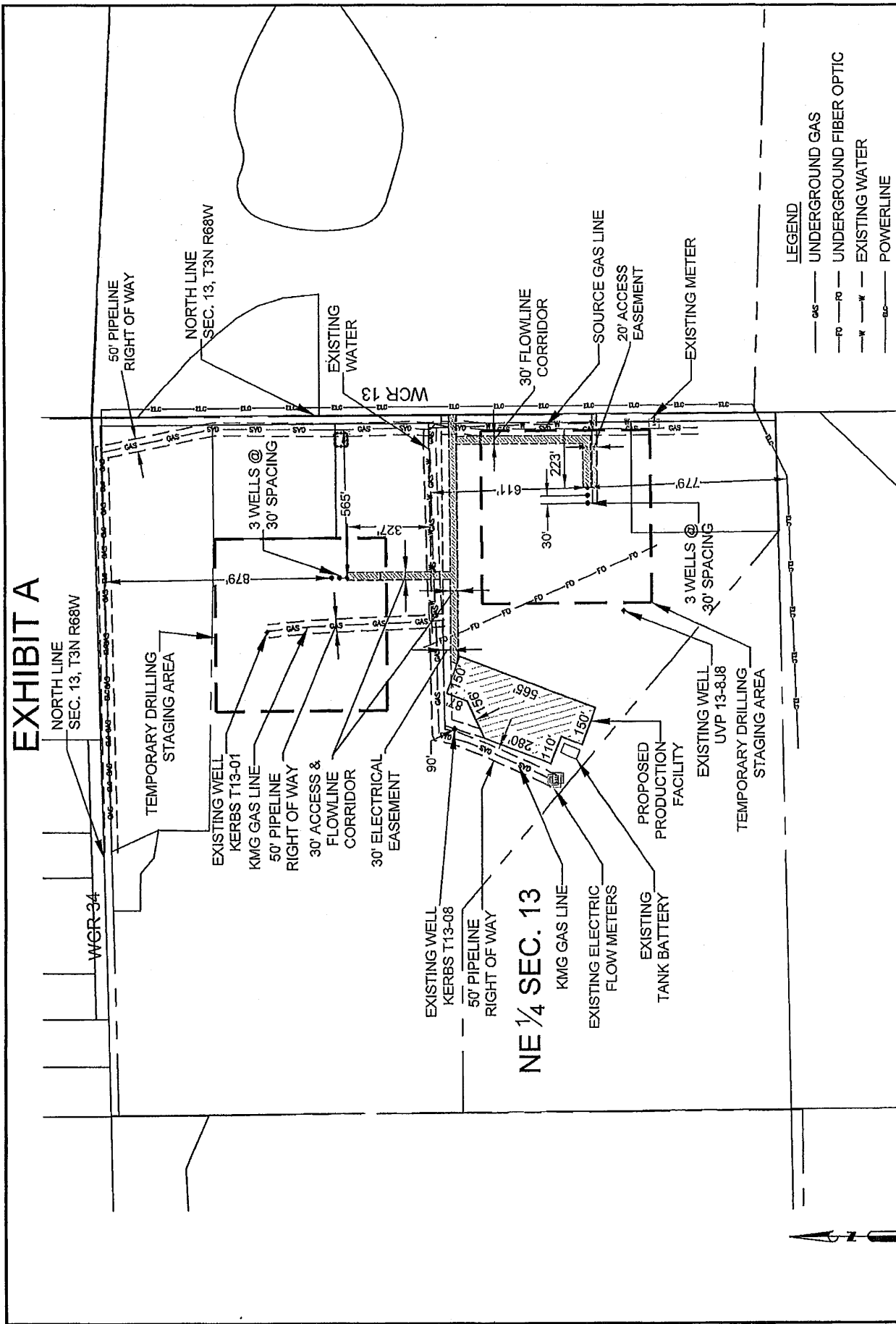
My commission expires May 21<sup>st</sup> 2016



**Exhibit A**  
**to**  
**Surface Use Agreement and Easement and Right-of-Way Grant**  
**effective July 20, 2013**  
**by and between Kerr-McGee Oil & Gas Onshore LP and Jacob Kerbs and Ellen Kerbs, as**  
**Co-Trustees of the Jacob and Ellen Kerbs Living Trust**

**See attached map of locations for oil and gas wells and production facilities, flowline  
corridor, pipeline easements and access**

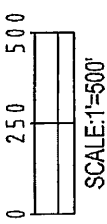
# EXHIBIT A



**LEGEND**

- GAS — UNDERGROUND GAS
- FO — UNDERGROUND FIBER OPTIC
- W — EXISTING WATER
- PL — POWERLINE

<p>PREPARED BY: <b>PFS</b>          Petroleum Field Services, LLC          1801 W. 138th AVE.          Denver, CO 80224</p>		<p>FIELD DATE: NA</p>	<p>WELL NAME: KERBS 3N68W13 NE</p>
<p>DRAWING DATE: 07-17-13</p>		<p>SURFACE LOCATION: NE1/4, SEC. 13, T3N, R68W, 6TH P.M.          WELD COUNTY, COLORADO</p>	
<p>BY: JAH</p>	<p>CHECKED BY: TJN</p>		



**Exhibit B**

to

**Surface Use Agreement and Easement and Right-of-Way Grant  
effective July 20, 2013****by and between Kerr-McGee Oil & Gas Onshore LP and Jacob Kerbs and Ellen Kerbs, as  
Co-Trustees of the Jacob and Ellen Kerbs Living Trust****RIGHT-OF-WAY GRANT**

**THIS RIGHT-OF-WAY GRANT** ("Grant") is made this 27<sup>th</sup> day of July, 2013, from Jacob Kerbs and Ellen Kerbs, as Co-Trustees of the Jacob and Ellen Kerbs Living Trust, the Trust having an address of 5500 County Road 34, Platteville, Colorado 80651 ("Grantor") to KERR-McGEE GATHERING LLC, a Colorado limited liability company, with an address of 1099 18th Street, Suite 1800, Denver, Colorado 80202 ("Grantee"). The parties agree as follows:

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, conveys and warrants unto Grantee, its successors and assigns, a perpetual right-of-way and easement to survey, construct, maintain, inspect, operate, repair, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove and release, at Grantee's election, one or more pipelines, electric power lines, data transmission lines and equipment, and all appurtenances, below and/or above ground, necessary or convenient for the transportation or transmission of oil, gas, petroleum products, water, electricity, electronic data, hydrocarbons and any other substances, whether electronic, fluid, solid or gaseous, and any products, derivatives, combinations or mixtures of any of the foregoing, in, on, over, under, or through the lands situated in Weld County, State of Colorado, being described as follows:

**TOWNSHIP 3 NORTH, RANGE 68 WEST, 6<sup>TH</sup> PM**  
**Section 13: NE/4**

The route and course of the right-of-way and easement conveyed hereby ("Right-of-Way Lands") are more particularly described on Exhibit "A" attached hereto and made a part hereof. The width of the Right-of-Way Lands is seventy-five feet (75') during construction, and subsequent to construction the width of the Right-of-Way Lands is fifty feet (50'). If there is a deviation in the Right-of-Way Lands as constructed, then Grantor agrees that upon request from Grantee, the parties will execute a Notice of Pipeline Location along with an as-built survey plat to amend the description of the Right-of-Way Lands.

From time to time after the initial construction of the pipeline(s), Grantee may require the use of the construction work space depicted on said Exhibit "A" to survey, construct, maintain, inspect, operate, repair, alter, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove the pipeline(s) together with appurtenances. Grantee may use the construction work space from time to time in connection with the rights granted hereby, provided, it gives Grantor reasonable notice of such use; and, provided further, it restores the same as described below when not in use.

Grantor represents and warrants to Grantee that Grantor is the sole owner in fee simple of the Right-of-Way Lands subject to the burden of the Right-of-Way and that Grantor has full right, power and authority to enter into this Grant.

Any pipelines and/or appurtenances to be constructed underground pursuant to this Grant shall be placed at a depth of not less than 36 inches below the surface of the ground. Grantor agrees not to increase or decrease the surface elevation on the Right-of-Way Lands without Grantee's prior written permission. Grantee shall repair and/or restore any fence(s) on or adjacent to the Right-of-Way Lands that are removed or severed by Grantee in the course of the operations provided for in this Grant to the condition such fence was in prior to its removal or severance by Grantee. If necessary to prevent the escape of Grantor's livestock, Grantee shall construct temporary gates or fences in those areas affected by Grantee's operations as provided for in this Grant.

To the extent reasonably practicable and within a reasonable period of time after completion of construction, Grantee shall level and restore any lands affected by Grantee's operations that have excessive settling and shall sufficiently compact the soil to the condition that existed at the time immediately prior to the placement of Grantee's pipeline(s).

Grantor agrees that Grantor will not build, create, or construct, or permit to be built, created or constructed, any obstruction, building, fence, reservoir, engineering works or other structures or improvements over, under, on or across the Right-of-Way Lands without the prior written consent of Grantee.

Grantee shall have all rights, privileges and benefits necessary or convenient for the full use and enjoyment of this Grant, including but not limited to the rights of ingress and egress over and across Grantor's lands lying adjacent to the Right-of-Way Lands for any and all purposes necessary or incidental to exercising Grantee's rights hereunder. Grantor agrees that at Grantee's option, Grantee may pay and discharge any taxes, mortgages or liens existing, levied or assessed on or against the lands burdened by the Right-of-Way easement. If Grantee exercises such option, Grantee shall be subrogated to the rights of the party to whom payment is made, and in addition to its other rights, may reimburse itself out of any rentals, royalties, shut-in royalties, or any other amounts otherwise payable to Grantor from Grantee.

Grantee shall be obligated to pay for, repair, replace or otherwise compensate Grantor for any damages resulting from Grantee's activities and operations on the Right-of-Way Lands, except for any damage to structures or improvements placed in the Right-of-Way Lands contrary to the terms contained herein, and Grantor shall pay for, reimburse, indemnify and hold Grantee harmless from any and all claims and damages resulting from Grantor's activities on the Right-of-Way Lands. Grantor shall have the right to use and enjoy the Right-of-Way Lands, subject to the rights herein granted.

Grantor agrees to comply with the "General Guidelines for Design and Construction Activities On or Near Kerr-McGee Gathering LLC and Kerr-McGee Rocky Mountain Corporation Pipelines and Related Facilities" (Revision 1/2011) which is attached hereto as "Exhibit B."



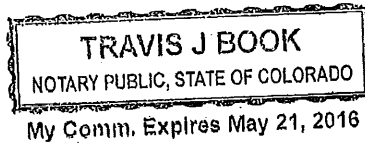
STATE OF COLORADO )  
 )ss  
COUNTY OF WELD )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of July, 2013, by Jacob Kerbs, as Co-Trustee of the **Jacob and Ellen Kerbs Living Trust.**

Witness my hand and official seal.

[Signature]  
Notary Public

My commission expires May 21<sup>st</sup> 2016



STATE OF COLORADO )  
 )ss. Bellevue  
City and County of Denver )

The foregoing instrument was acknowledged before me this 29 day of July, 2013, by Ronald Olsen as Agent and Attorney-in-Fact for Kerr-McGee Gathering LLC.

Witness my hand and official Seal.

My Commission Expires: May 4, 2016

[Signature]  
Notary Public:

(SEAL)

