

## SURFACE USE AGREEMENT

THIS SURFACE USE AGREEMENT ("Agreement") is effective this 16<sup>th</sup> day of December, 2008, and is between KERR-McGEE OIL & GAS ONSHORE LP ("KMG") with an address of 1099 18<sup>th</sup> Street, Suite 1800, Denver, CO 80202, and MEAD PARTNERS OPERATING CO., LLC; ROBERT C. CHANSLER and RODNEY J. SCHMIDT all controlled by EQUINOX MEAD, LLC, a Colorado corporation; with an address of 9055 E. Mineral Circle #100, Centennial, Colorado 80112 ("Surface Owner").

A. Surface Owner owns the surface estate for that certain tract of land more particularly described on Exhibit A attached hereto, being a portion of the S/2 of Section 22, Township 3 North, Range 68 West, Weld County, Colorado, and hereinafter referred to as the "Property."

B. Surface ownership of the Property is subject to the rights of the oil and gas mineral leasehold estate, a portion of which is owned by KMG.

C. Surface Owner plans to develop the surface of the Property as residential lots to be known as Equinox Mead.

D. KMG currently operates one (1) well(s) on the Property known as the F.E. Weingardt Gas Unit 1, which is/are hereinafter referred to as the "Existing Well(s)," and KMG also has the right to develop its oil and gas leasehold estate by drilling additional wells on the Property hereinafter referred to as the "Future Wells," and the Existing Well(s) and Future Wells are referred to collectively as the "Wells."

E. This Agreement sets forth the parties' rights and obligations regarding the relationship between the development of the Property by Surface Owner and KMG's operation and development of its oil and gas leasehold estate underlying the Property, such rights and obligations to be binding upon the parties' successors and assigns.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **1. OIL AND GAS OPERATIONS AREAS FOR THE EXISTING WELL AND FUTURE WELLS.**

Surface Owner shall set aside and provide to KMG a single area(s) on the Property hereinafter referred to as the "Oil and Gas Operations Area(s)," such area(s) being the location for the Existing Well in the Southwest quarter and the area(s) being located generally in the Southwest quarter as depicted on Exhibits B1 & B2 attached hereto. Surface Owner shall make the Oil and Gas Operations Areas available to KMG in their present condition for all operations conducted by KMG in connection with the Existing Well and fourteen (14) Future Wells, including, but not limited to, drilling and production activities, workovers, well deepenings, recompletions, fracturing, re-fracturing, and the drilling of twinned and replacement wells. Except for the Oil and Gas Operations Areas and the access roads and easements for flowlines,

gathering lines and pipelines provided for in this Agreement, KMG shall not occupy the surface of the Property except in the event of an emergency.

KMG shall also have the right to locate, build, repair and maintain tanks separators, dehydrators, compressors and all other associated oil and gas drilling and production equipment and facilities within the Oil and Gas Operations Areas. If Surface Owner wants KMG to install low-profile tanks for new or replacement tanks, KMG and Surface Owner will negotiate in good faith with respect to the liability of the parties to this Agreement for the incremental expense over the standard stock tanks KMG uses to install such tanks.

KMG and Surface Owner agree that Surface Owner may utilize the outer 50 feet of the Oil and Gas Operations Areas for shallow root landscaping, paths and trails (and no other purpose), provided that KMG shall have no liability to Surface Owner and its successors and assigns for any damage to the landscaping, paths and trails caused by KMG's oil and gas operations in the Oil and Gas Operations Areas.

## **2. WELL LOCATIONS.**

KMG shall have the right to drill fourteen (14) Future Wells within all Oil and Gas Operations Areas in the locations shown on Exhibit B2, including horizontal and directional wells that produce from and drain lands other than the Property; and so long as the well locations are permitted locations under the then applicable well spacing or well location regulations of the Colorado Oil and Gas Conservation Commission ("COGCC") or exceptions to the regulations granted thereto by the COGCC or its Director.

As part of the consideration for this Agreement, Surface Owner hereby consents to, waives its right to, and covenants that it will not protest or object to any exception location or application for an exception location applied for by KMG; provided that, the exception location request or application is consistent with this Agreement.

## **3. WAIVER OF SETBACK REQUIREMENTS/ OTHER STATE AND LOCAL RULES AND REGULATIONS.**

Surface Owner will not locate any lot line or any permanent or temporary building, structure or other improvement within the Oil and Gas Operations Areas or within the access roads or pipeline, gathering line or flow line easement areas described in this Agreement. Except as stated in this Agreement, the Oil and Gas Operations Areas shall be for the exclusive use of oil and gas operations and production and for the location of oil and gas wells and associated oil field drilling and production equipment.

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. In order to give full effect to the purposes of this Agreement, Surface Owner hereby consents to and waives its right to object to the location of any of KMG's wells or facilities on the basis of setback requirements in the rules and regulations of the COGCC, as they may be amended from time to time, so long as such facilities are located within an Oil and Gas Operations Area as shown herein. Surface Owner further and

similarly waives its rights to object 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 of KMG or its successors and assigns to explore for and produce the oil and gas in accordance with this Agreement KMG or its successors and assigns may cite the waiver in this section 3 in order to obtain a location exception or variance under COGCC rules or from any other state or local jurisdiction so long as such locations are within the Oil and Gas Operations Areas as shown herein.

Surface Owner agrees that it will not object to the use of the surface of the Property by KMG so long as the use is consistent with this Agreement and Surface Owner will provide KMG or its successors and assigns with whatever written support it may reasonably require to obtain permits or approvals from the COGCC or any local jurisdiction.

KMG agrees that it will not object to the development plans and use of the Property by Surface Owner and agrees that it will reasonably cooperate with Surface Owner in obtaining permits or approvals from any local government or jurisdiction in order to develop the surface of the Property provided that such surface development is consistent with this Agreement.

#### **4. GATHERING LINES AND FLOWLINES/ PIPELINE EASEMENTS.**

Subject to the limitations hereinafter described, KMG and its affiliated companies have a continuing right and entitlement to own, operate, maintain, repair and replace all flowlines, gathering lines and other pipelines that may be necessary or convenient to its operations on the Property. Although this Agreement is intended to confine the placement of pipelines to certain specified locations within the Property, nothing herein shall be construed as a limitation on KMG's and its affiliate's right to make connections for flowlines, gathering lines and pipelines to the Existing Well and Future Wells; provided that, the placement of the lines is consistent with this Agreement or is otherwise compatible with the development of the surface by Surface Owner. In the event the Surface Owner requires that any flowline or pipeline blanket easement be amended to show the actual location of the pipeline and/or flowline, KMG agrees to reasonably cooperate with the Surface Owner in review and execution of such amendment.

Future development plans for the Property may require the relocation of certain existing pipelines, gathering lines or flowlines ("Existing Pipelines"). All Existing Pipelines that may be relocated and all pipelines to be installed in the future ("Future Pipelines") shall be located within the Pipeline Easements, as identified on Exhibit B2, unless otherwise agreed upon in writing between Surface Owner and KMG. Relocations of Existing Pipelines shall be at the cost and expense of Surface Owner and pursuant to a separate pipeline relocation agreement. Notwithstanding anything in this Agreement to the contrary, neither KMG nor any affiliate will be required to move or relocate any Existing Pipelines unless and until the Parties to this Agreement have executed the separate pipeline relocation agreement referred to in the immediately preceding sentence.

At the time or times that Surface Owner desires to have Existing Pipelines relocated to the Pipeline Easements, Surface Owner shall give written notice to KMG, and KMG shall prepare or cause to be prepared a cost estimate to perform the proposed relocation. Such cost estimate shall include a 15% markup for administrative, supervision and other overhead costs



related to the relocation. KMG will provide the cost estimate to Surface Owner as soon as practicable, and Surface Owner will thereafter determine whether or not to proceed with the relocation. If Surface Owner elects to have KMG perform the pipeline relocation, Surface Owner shall pay KMG the estimated costs and request in writing that the pipelines be relocated. KMG shall commence operations to relocate the pipelines as soon as practicable thereafter.

Surface Owner shall deliver to KMG an executed Pipeline Relocation Agreement and an executed and acknowledged Pipeline Right of Way Grant in the forms that are attached hereto as Exhibits C1 & C2 to provide for the relocation of gathering lines and to convey the Pipeline Easements. The Pipeline Easements shall be sixty feet (60') in width during construction, installation or relocation operations and reduced to thirty feet (30') in width for post-construction usage.

The Pipeline Easements are non-exclusive, and KMG agrees that it will not object to the use of the Pipeline Easements by other oil and gas operators or utilities, as Surface Owner may grant from time to time, so long as the other parties comply with KMG's pipeline guidelines, attached hereto as Exhibit D; provided however, Surface Owner shall not permit the placement or allow others to place any utility or structure within ten feet (10') horizontally or two feet (2') vertically of a KMG pipeline, gathering line or flow line. The Pipeline Easements and Oil and Gas Operations Areas shall be depicted and labeled on all subdivision plats submitted to the City of Thornton or other local jurisdiction.

If Surface Owner proposes to construct roads that will cross over Existing Pipelines or Future Pipelines that are then installed on the Property, Surface Owner shall pay KMG the costs to have KMG sleeve the portions of the pipelines that are to be crossed by the roads, such payment to be made in advance of the work. Unless otherwise agreed in writing, Surface Owner shall not install the portion of the road that crosses a pipeline until the pipeline has been sleeved

All flowlines and pipelines shall be buried to a depth of approximately forty-eight inches (48") from the surface. Surface Owner shall maintain a minimum of forty-eight inches (48") and not more than seventy-two inches (72") of cover over pipelines and flowlines during and following Surface Owner's operations on the Property.

## 5. ACCESS.

Surface Owner understands and acknowledges that KMG will continue to have the right to use the access route that it is currently using to access the Oil and Gas Operations Area with the Existing Well as identified on Exhibit B2 as the "Current Access Road."

Surface Owner, in all events and at all times, shall provide and not impede KMG's continuous access to the Oil and Gas Operations Areas and the Pipeline Easements. No party shall unreasonably interfere with the use by the other of an access road.

Roads that are constructed by Surface Owner as part of its development of the Property (including replacement or alternate access roads) shall be constructed and installed at Surface Owner's sole cost and expense and be of sufficient width and construction for KMG to conduct its oil and gas operations.



At such time as Surface Owner constructs the Paved Access Roads, Surface Owners shall keep the portions of the Paved Access Roads that are jointly used by KMG and Surface Owner in good condition and repair until such roads are dedicated to a local jurisdiction. Damage to any access roads resulting from oil and gas operations shall be promptly repaired by KMG.

Surface Owner agrees that it will obtain and pay the costs to obtain from the local jurisdiction permits for curb cuts as deemed necessary by KMG. Said curb cuts shall be forty (40) feet in width

Access roads or portions of access roads that are jointly used by KMG and Surface Owner shall be thirty feet (30') or more in width and constructed by Surface Owner to withstand the weight of oilfield equipment. Specifically, Surface Owner shall construct the roads so that they can withstand the weight of a minimum of 104,000 pounds and 26,000 pounds per axle.

Access roads or portions of access roads that are used exclusively by KMG shall be generally thirty feet (30') in width, and KMG shall install and maintain such roads or portions of roads to those state and local standards that apply to oil and gas operations.

**6. BATTERIES AND EQUIPMENT.**

KMG shall have the right to locate, build, repair and maintain tanks, separators, dehydrators, compressors and all other associated oil and gas equipment and facilities necessary or convenient for the operation and production of the Wells (hereinafter the "Production Equipment") within the Oil and Gas Operations Areas. With respect to certain specific equipment and facilities to be installed by KMG on the Property in the future:

- a. KMG shall install and maintain at its sole cost and expense fences around the Wells in compliance with the rules and regulations of the COGCC.
- b. KMG shall install and maintain at its sole cost and expense all gates and locks reasonably necessary for the security of the Wells and Production Equipment within the Oil and Gas Operations Areas; such gates and locks to be the standard gates and locks used by KMG.
- c. KMG shall paint production facilities for Wells, including wellhead guards, with paint approved by the COGCC.
- d. Surface Owner shall not inhibit KMG's access to the Oil and Gas Operations Areas and Pipeline Easements or inhibit KMG's operations within the Oil and Gas Operations Areas and Pipeline Easements by landscaping or other improvements, unless otherwise agreed upon in writing between Surface Owner and KMG.

**7. NOTICE OF FUTURE OPERATIONS.**

KMG shall provide Surface Owner or the then current owner of the specific parcel of Property, as applicable, with notice of future oil and gas operations on the Property in accordance with COGCC rules and regulations. KMG shall also provide applicable written



notice at least thirty (30) days prior to drilling operations for a Future Well within an Oil and Gas Operations Area. Regardless of the foregoing notice requirements, KMG shall have immediate access to all its Wells and facilities in the event of an emergency.

After receipt of the notice of the commencement of drilling operations, but not less than five (5) working days prior to the commencement of drilling operations, either KMG or Surface Owner may request an on-site meeting. The purpose of the meeting shall be to inform Surface Owner of the prospective oil and gas operations on the Property and to coordinate site access, hazards, barricades, site restoration or other matters that affect the development of the surface and oil and gas estates for the particular activity for which notice has been given.

**8. NOTICES TO HOMEOWNERS AND BUILDERS.**

Surface Owner shall furnish all buyers of the Property from Surface Owner with a plat or map showing the Oil and Gas Operations Areas and Pipeline Easements, and Surface Owner shall also provide notice to all builders, homeowners, homeowner associations and other buyers of the Property from Surface Owner that:

- a. there may be ongoing oil and gas operations and production within the Oil and Gas Operations Areas and Pipeline Easements on the surface of the Property;
- b. there are likely to be additional Wells drilled and oil and gas operations and production operations conducted on the Property within the Oil and Gas Operations Areas and the Pipeline Easements that affect the surface of the Property;
- c. heavy equipment may be used by KMG from time to time for oil and gas drilling and production operations and such operations may be conducted on a 24-hour basis;
- d. homeowner associations and buyers of individual lots or homes, as successors in interest to Surface Owner, will be acquiring a proportionate interest in Surface Owner's rights under this Agreement and assuming the obligations undertaken by Surface Owner pursuant to this Agreement, and be subject to the waivers and consents and requirements contained in sections 2, 3, 4, 10 and 23, among others, and the covenants herein prohibiting the location of any building or structure within the Oil and Gas Operations Areas or the Pipeline Easements and waiving objections to the setback rules of the COGCC and local jurisdictions and waiving surface damage payments and granting the pipeline easements identified herein.

Notice of the foregoing may be accomplished by the use of notes on the plat of the Property and providing the purchaser with a copy of this Agreement.

**9. DRILLING AND COMPLETION OPERATIONS.**

KMG shall use best efforts to diligently pursue drilling operations to minimize the total time period within the Oil and Gas Operations Area and to avoid rig relocations or startup during

the course of drilling. Surface Owner waives any objections to continuous (i.e., 24-hour) drilling operations.

**10. GOVERNMENTAL PROCEEDINGS.**

Surface Owner agrees that it will not object in any forum to the use by KMG of the surface of the Property consistent with this Agreement and hereby waives any such right to object. Surface Owner further agrees that it will provide such other written approvals and waivers that are requested by KMG 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 Property because of any law or regulation, including any local ordinance and regulations of the COGCC, and including, for example, waivers to state and local setback requirements from a surface property line or for an exception location. Surface Owner further waives any rights it has to require or request a surface inspection for wells proposed to be drilled on the Property for the purpose of requesting that conditions be attached to a permit to drill the well. Surface Owner further consents to the location of multiple wells within an Oil and Gas Operations Area that are greater or less than fifty feet apart so long as all such wells are located within the Oil and Gas Operations Area.

KMG agrees that it will not oppose Surface Owner in any agency or governmental proceeding, including, but not limited to, the Town of Mead, Weld County or the proceedings for any other governing body related to Surface Owner's development of the surface estate, and including, but not limited, to applications for rezoning, and subdivision and plat approval; provided that, Surface Owner's position in the proceedings is consistent with this Agreement.

**11. LIMITATION OF LIABILITY, RELEASE AND INDEMNITY.**

a. No party shall be liable for, or be required to pay for, special, punitive, exemplary, incidental, consequential or indirect damages to any other party for activities undertaken within the scope of this Agreement. This limitation is not intended to limit actual or compensatory damages.

b. Except as to claims arising out of pollution or environmental damage (which claims are governed by section 12 below) or out of other provisions of this Agreement (which claims shall be governed by the terms of this Agreement), each party shall be and remain responsible for its own liability for all losses, claims, damages, demands, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation, attorneys' fees, expert witness 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 Property, no matter when asserted, subject to applicable statutes of limitations. Each party shall release, defend, indemnify and hold the other party, its officers, directors, employees, successors and assigns, harmless against all such Claims if made by non-parties to this Agreement or their successors and assigns. 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.



separate rights in parties to this Agreement other than the right to be indemnified for Claims as provided herein.

c. Upon the assignment or conveyance of a party's entire interest in the Property, the party shall be released from the indemnifications in section 11.b. for all actions or occurrences after the assignment or conveyance.

**12. ENVIRONMENTAL INDEMNITY.**

The provisions of section 11 above, except for section 11.a. shall not apply to environmental matters, which shall be governed exclusively by the following, but subject to the limitations of section 11.a. above:

a. "Environmental Claims" shall mean all Claims asserted by governmental bodies or other third parties for pollution or environmental damage of any kind, arising from operations on or ownership of the Property or ownership of the oil and gas leasehold 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 relating to asbestos or to naturally occurring radioactive materials. Environmental Claims shall not include the costs of remediation undertaken voluntarily by any party, unless such remediation is performed under the imminent threat of a Claim by a governmental body or other third party;

b. "Environmental Laws" shall mean any law, regulation, rule, ordinance, or order of any governmental authorities 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. § 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), the Clean Water Act (33 U.S.C. §§ 466 et seq.), the Safe Drinking Water Act (14 U.S.C. §§ 1401-1450), the Hazardous Material Transportation Act (49 U.S.C. §§ 1801 et seq.), the Clean Air Act, and the Toxic Substances Control Act (15 U.S.C. §§ 2601-2629); and

c. KMG shall defend, indemnify, and hold harmless Surface Owner from Environmental Claims relating to the operations of KMG on the Property in its exploitation of the oil and gas leasehold interests that KMG owns and KMG's ownership and operation of the pipeline easements on the Property and its use of the access roads on the Property. Surface Owner shall defend, indemnify and hold harmless KMG from any and all Environmental Claims relating to the Property that arise out of Surface Owner's development of the Property or to the operations of the homeowner's association on the Property.

**13. EXCLUSION FROM INDEMNITIES.**

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

**14. 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 11 or section 12 above, it is a condition precedent to the indemnifying party's obligations hereunder that the indemnified party give the indemnifying party written notice of such 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 five (5) days of receipt of a Claim and in all events shall provide notice within such time as will allow the indemnifying party to defend against the Claim.

**15. COMPLIANCE WITH REGULATIONS**

KMG shall conduct its oil and gas operations in accordance with COGCC rules and regulations and valid and applicable regulations and ordinances of governmental authorities; provided, however, nothing in this Agreement creates a private right of action under any state statute or state or local rule or regulation, including the regulations of the COGCC and the provisions of the Colorado Oil and Gas Conservation Act at C.R.S. 34-60-101 et.seq.

**16. REPRESENTATIONS.**

Each party represents that it has the full right and authority to enter into this Agreement. KMG does not represent that it has rights to settle matters for any mineral owner or any other oil and gas lessee for the Property and this Agreement shall only apply to and bind KMG only with respect to the oil and gas leasehold interests it owns in the Property.

**17. SUCCESSORS AND ASSIGNS.**

The terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the parties and their respective heirs, devisees, executors, administrators, successors and assigns; provided, however, successors and assigns with respect to KMG shall be limited to only the assignees of the oil and gas leasehold rights that KMG currently owns.

**18. COVENANTS RUN WITH THE LAND.**

This Agreement and all of the covenants in it shall be covenants running with the land. Any subsequent sale of the Property by Surface Owner shall be subject to the terms of this Agreement, and, to the extent that such successors acquire a property interest in the Property or portion thereof, such buyers, as successors in interest to Surface Owner, will be acquiring all of the rights of Surface Owner under this Agreement and assuming those obligations undertaken by Surface Owner pursuant to this Agreement.

**19. TERM.**

This Agreement shall become effective when it is fully executed and shall remain in full force and effect until KMG's oil and gas leasehold rights and the rights of its successors and

assigns expire or are terminated and KMG, or its successors and assigns, as applicable, have plugged and abandoned all wells owned in whole or in part by KMG or its successors and assigns and complied with the requirements of all applicable oil and gas leases pertaining to the abandonment of wells, removal of equipment, reclamation, cleanup and all other applicable provisions of the leases and all existing laws and regulations.

**20. NOTICES.**

Any notice or other communication required or permitted under 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, and registered or certified mail with return receipt requested; or iv) prepaid telecopy or fax, the receipt of which shall be addressed as follows:

**If to KMG:**

Kerr McGee Oil & Gas Onshore LP  
1999 Broadway, Suite 3700  
Denver, Colorado 80202  
Attention: Director of Land Denver Basin

**If to Surface Owner:**

Equinox Mead, LLC  
9055 E. Mineral Circle #100  
Centennial, Colorado 80112  
Attention: Roger G. Hollard

Any party may, by written notice delivered to the other parties, change the address or individual to whom delivery shall thereafter be made.

**21. RECORDING.**

This Agreement and any subsequent amendment hereto shall be recorded by KMG in the Office of the Clerk and Recorder for Weld County, and KMG shall provide Surface Owner with a copy of the recorded agreement as soon as is reasonably practicable thereafter.

**22. WAIVER OF SURFACE DAMAGE PAYMENTS.**

Surface Owner hereby waives all surface damage payments pursuant to any existing or future COGCC or local regulation, state statute, common law or prior contract or agreement or provision in any oil and gas lease for each and every well that has been drilled or will be drilled in the future on the Property within the Oil and Gas Operations Areas and for the location of Production Equipment, as well as for access roads and flowlines and for pipelines relocated or constructed within the Pipeline Easements. KMG may provide a copy of this Agreement to the



COGCC as evidence of this waiver. Surface Owner does not waive any damage payments or liability of KMG resulting from trespass or negligent or willful mineral operations of KMG and/or its employees, agents, contractors, subcontractors and invitees.

**23. APPLICABLE LAW AND COMPLIANCE WITH LAW.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without reference to its conflict of laws provisions. KMG and Surface Owner expressly acknowledge that this Agreement satisfies each party's obligation to consult in good faith with each other regarding the proposed oil and gas operations and surface uses. Surface Owner further expressly acknowledges that this Agreement shall be deemed to be specifically applicable to and to fully satisfy, the obligation of KMG to accommodate Surface Owner's use of the surface of the Property, existing or future, and waives any statutory or common law claims with respect thereto.

**24. CONSTRUCTION.**

The parties have participated jointly in the negotiating and drafting of this Agreement. In the event ambiguity or question 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 any 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.

**25. ENTIRE AGREEMENT.**

This Agreement sets forth the entire understanding between the parties hereto regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by all parties.

**26. EXECUTION AND BINDING EFFECT**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument.



3601264 01/26/2009 11:33A Weld County, CO  
12 of 36 R 181.00 D 0.00 Steve Moreno Clerk & Recorder

The parties have executed this Agreement on the dates set forth in the acknowledgments,  
to be effective on the date first above written.

**KERR-MCGEE OIL & GAS ONSHORE LP**

By:   
Name: Michael A. Nixon  
Its: Agent & Attorney-in-Fact 

**EQUINOX MEAD, LLC**

By:   
Name: Gene A. Osborne  
Its: ~~President~~ *Manager*

**MEAD PARTNERS OPERTING CO., LLC**

By: \_\_\_\_\_  
Name: Rodney J. Schmidt  
Its: Manager

**ROBERT C. CHANSLER, INDIVIDUAL**

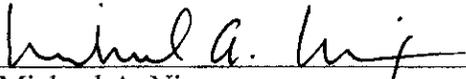
By: 

**RODNEY J. SCHMIDT, INDIVIDUAL**

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

The parties have executed this Agreement on the dates set forth in the acknowledgments, to be effective on the date first above written.

**KERR-MCGEE OIL & GAS ONSHORE LP**

By:   
Name: Michael A. Nixon  
Its: Agent & Attorney-in-Fact *ab*  
*1/26/09*

**EQUINOX MEAD, LLC**

By:   
Name: Gene A. Osborne  
Its: ~~President~~ *Manager*

**MEAD PARTNERS OPERATING CO., LLC**

By:   
Name: Rodney J. Schmidt  
Its: Manager

**ROBERT C. CHANSLER, INDIVIDUAL**

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

**RODNEY J. SCHMIDT, INDIVIDUAL**

By: 



3601264 01/26/2009 11:33A Weld County, CO  
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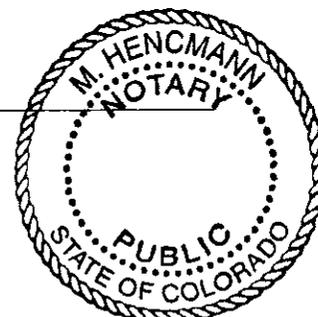
ACKNOWLEDGMENTS

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

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of November, 2008, by Michael A. Nixon, as Agent & Attorney-in-Fact of KERR McGEE OIL & GAS ONSHORE LP, on behalf of the partnership.

Witness my hand and official seal.

M. Henemann  
Notary Public



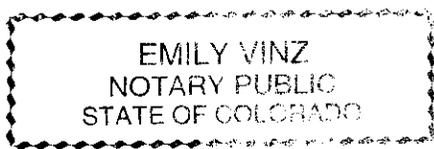
My Commission Expires: 9/27/2011

My Commission Expires 9-27-2011

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Arapahoe )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of November, 2008, by Gene A. Osborne, as ~~President~~ Manager of EQUINOX MEAD, LLC, on behalf of the corporation.

Witness my hand and official seal.



My Commission Expires 10/30/10

Emily Vinz  
Notary Public

My Commission Expires: 10/30/10

3601264 01/26/2009 11:33A Weld County, CO  
 15 of 36 R 181.00 D 0.00 Steve Moreno Clerk & Recorder

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Rodney J. Schmidt, as Manager of MEAD PARTNERS OPERATING CO., LLC, on behalf of the corporation.

Witness my hand and official seal.

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

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

*Oklahoma*  
 STATE OF ~~COLORADO~~ )  
 ) ss.  
 COUNTY OF Tulsa )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of December, 2008, by Robert C. Chansler.

Witness my hand and official seal.

*Marla A. Parsons*  
 \_\_\_\_\_  
 Notary Public



My Commission Expires: 5-23-2009

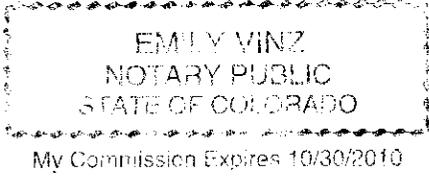


3601264 01/26/2009 11:33A Weld County, CO  
16 of 36 R 181.00 D 0.00 Steve Moreno Clerk & Recorder

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Arapahoe )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 2008, by Rodney J. Schmidt, as Manager of MEAD PARTNERS OPERATING CO., LLC, on behalf of the corporation.

Witness my hand and official seal.



Emily Vinz  
Notary Public

My Commission Expires: 10/30/10

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Robert C. Chansler.

Witness my hand and official seal.

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

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



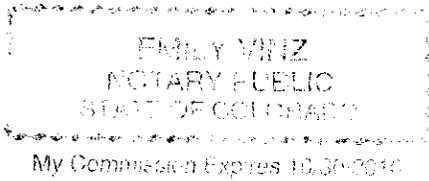
3601264 01/26/2009 11:33A Weld County, CO  
17 of 36 R 181.00 D 0.00 Steve Moreno Clerk & Recorder

STATE OF COLORADO )

COUNTY OF Arapahoe ) ss. )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 2008, by Rodney J. Schmidt

Witness my hand and official seal.



Emily Vinz  
Notary Public

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



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Exhibit A  
to Surface Use Agreement effective \_\_\_\_\_, 2008  
between Kerr-McGee Oil & Gas Onshore LP and MEAD PARTNERS OPERATING CO.,  
LLC; ROBERT C. CHANSLER and RODNEY J. SCHMIDT all controlled by EQUINOX  
MEAD, LLC.

LEGAL DESCRIPTION

# Exhibit A



TETRA TECH, INC.



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## LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF MEAD, COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 22 WHENCE THE SOUTHWEST CORNER BEARS SOUTH 00°26'23" EAST 2648.73 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION; THENCE NORTH 88°50'51" EAST 30 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF WELD COUNTY ROAD NO. 7 AND THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 NORTH 88°50'51" EAST 1185.50 FEET TO A POINT ON THE WESTERLY BOUNDARY OF MULLIGAN RESERVOIR; THENCE ALONG THE BOUNDARY OF SAID MULLIGAN RESERVOIR THE FOLLOWING 16 COURSES: 1) SOUTH 15°09'21" EAST 283.80 FEET; 2) SOUTH 22°38'20" EAST 191.40 FEET; 3) SOUTH 45°12'21" EAST 151.80 FEET; 4) NORTH 64°29'39" EAST 129.30 FEET; 5) NORTH 37°40'39" EAST 154.50 FEET; 6) SOUTH 82°23'21" EAST 110.90 FEET; 7) SOUTH 48°31'21" EAST 126.40 FEET; 8) SOUTH 15°25'21" EAST 197.70 FEET; 9) SOUTH 00°36'39" WEST 223.70 FEET; 10) SOUTH 21°35'21" EAST 145.20 FEET; 11) SOUTH 71°15'21" EAST 128.90 FEET; 12) SOUTH 81°55'21" EAST 308.50 FEET; 13) NORTH 67°28'39" EAST 175.20 FEET; 14) NORTH 49°09'39" EAST 131.40 FEET; 15) NORTH 23°17'39" EAST 192.26 FEET; 16) NORTH 69°39'13" EAST 76.17 FEET TO THE NORTHWEST CORNER OF LOT B OF RECORDED EXEMPTION NO. 1207-22-4-AMRE-2318; THENCE ALONG THE BOUNDARY OF SAID LOT B THE FOLLOWING 3 COURSES: 1) SOUTH 01°09'47" EAST 575.55 FEET; 2) SOUTH 88°49'54" WEST 318.27 FEET; 3) SOUTH 00°26'39" EAST 521.21 FEET TO THE NORTHEAST CORNER OF TRACT 2 OF WEINGARDT ESTATES; THENCE ALONG THE NORTH LINE OF SAID TRACT 2 SOUTH 88°49'43" WEST 1076.97 FEET TO THE SOUTHEAST CORNER OF THE EBERL AGRICULTURAL UNIT DEVELOPMENT; THENCE ALONG THE BOUNDARY LINE OF SAID EBERL AGRICULTURAL UNIT DEVELOPMENT THE FOLLOWING 2 COURSES; 1) NORTH 00°26'23" WEST 303.71 FEET; 2) SOUTH 88°49'55" WEST 1403.01 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 7; THENCE ALONG SAID LINE NORTH 00°26'23" WEST 475.78 FEET TO THE SOUTHWEST CORNER OF LOT A OF RECORDED EXEMPTION NO. 1207-22-3 RE3126; THENCE ALONG THE BOUNDARY OF SAID LOT A THE FOLLOWING 3 COURSES: 1) NORTH 89°33'37" EAST 276.73 FEET; 2) NORTH 00°23'23" WEST 255.26 FEET; 3) SOUTH 89°33'37" WEST 276.73 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SAID WELD COUNTY ROAD NO. 7; THENCE ALONG SAID LINE NORTH 00°26'23" WEST 851.11 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBED TRACT CONTAINS 77.300 ACRES MORE OR LESS.

TOGETHER WITH THE FOLLOWING DESCRIBED TRACT.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 22, WHENCE THE WEST QUARTER CORNER BEARS NORTH 00°26'23" WEST 2648.73 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION; THENCE ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 NORTH 00°26'23" WEST 762.82 FEET; THENCE NORTH 88°49'43" EAST 30.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 7, SAID POINT BEING THE NORTHWEST CORNER OF WEINGARDT ESTATES AND THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF SAID WEINGARDT ESTATES NORTH 88°49'43" EAST 2479.98 FEET TO A POINT ON THE WEST BOUNDARY OF LOT B OF RECORDED EXEMPTION NO. 1207-22-4-AMRE-2318; THENCE ALONG THE WEST BOUNDARY OF SAID LOT B SOUTH 00°26'39" EAST 614.82 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY 66; THENCE ALONG THE NORTH LINE OF SAID RIGHT-OF-WAY

SHEET 1 OF 3  
09/29/2008 JJA



TETRA TECH, INC.

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THE FOLLOWING 4 COURSES: 1) NORTH 87°34'04" WEST 794.68 FEET; 2) ALONG THE ARC OF A CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 11565.00 FEET, A CENTRAL ANGLE OF 04°12'46" AND A CHORD WHICH BEARS NORTH 88°49'20" WEST 850.12 FEET), 850.32 FEET; 3) NORTH 89°48'45" WEST 319.40 FEET; 4) ALONG THE ARC OF A CURVE TO THE LEFT (SAID CURVE HAVING A RADIUS OF 11565.00 FEET, A CENTRAL ANGLE OF 2°18'45", CHORD OF SAID ARC BEARS SOUTH 89°01'54" WEST 466.63 FEET) 466.66 FEET; THENCE NORTH 46°52'35" WEST 69.50 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD 7; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE NORTH 00°26'23" WEST 472.24 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBED TRACT CONTAINS 31.328 ACRES MORE OR LESS.

TOGETHER WITH THE FOLLOWING DESCRIBED TRACT.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 22, WHENCE THE WEST QUARTER CORNER BEARS NORTH 00°26'23" WEST 2648.73 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 NORTH 89°29'27" EAST 30.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 7 AND THE POINT OF BEGINNING; THENCE ALONG SAID LINE NORTH 00°26'23" WEST 91.34 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 66; THENCE ALONG SAID LINE THE FOLLOWING 4 COURSES: 1) ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 11415.00 FEET, A CENTRAL ANGLE OF 02°35'13" AND A CHORD WHICH BEARS NORTH 88°53'39" EAST 515.37 FEET), 515.42 FEET; 2) SOUTH 89°48'45" EAST 320.87 FEET; 3) ALONG THE ARC OF A CURVE TO THE RIGHT (SAID CURVE HAVING A RADIUS OF 11415.00 FEET, A CENTRAL ANGLE OF 04°13'32" AND A CHORD WHICH BEARS SOUTH 88°49'23" EAST 841.66 FEET), 841.85 FEET; 4) SOUTH 87°34'04" EAST 930.73 FEET TO A POINT ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG SAID EAST LINE SOUTH 00°33'32" EAST 20.28 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 22; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION SOUTH 89°29'27" WEST 2607.12 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBED TRACT CONTAINS 4.429 ACRES MORE OR LESS.

TOGETHER WITH THE FOLLOWING DESCRIBED TRACT; SAID TRACT BEING LOT B, RECORDED EXEMPTION NO. 1207-22-4-AMRE-2318, ACCORDING TO THE MAP RECORDED MARCH 21, 2000 AT RECEPTION NO. 2756783, BEING A PART OF THE SOUTH HALF OF SECTION 22, TOWNSHIP 3 NORTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF MEAD, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 FROM WHICH THE SOUTHEAST QUARTER OF SAID SECTION 22 BEARS NORTH 88°33'40" EAST A DISTANCE OF 2630.79 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS LEGAL DESCRIPTION; THENCE ALONG SAID LINE NORTH 88°33'40" EAST 1084.82 FEET; THENCE NORTH 01°26'20" EAST 97.68 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 66, SAID POINT BEING THE SOUTHEAST CORNER OF LOT B OF RECORDED EXEMPTION NO. 1207-22-4-AMRE-2318 AND THE POINT OF BEGINNING; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 87°35'20" WEST 733.55 FEET TO THE SOUTHEAST CORNER OF LOT A OF RECORDED EXEMPTION NO. 1207-22-4-AMRE-2318; THENCE ALONG THE BOUNDARY OF SAID LOT A THE FOLLOWING 5



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COURSES: 1) NORTH 10°55'10" EAST 495.09 FEET; 2) NORTH 87°43'48" WEST 354.24 FEET; 3) SOUTH 14°45'07" EAST 70.99 FEET; 4) SOUTH 03°15'20" WEST 39.69 FEET; 5) SOUTH 73°50'28" WEST 245.47 FEET TO A POINT ON THE EAST BOUNDARY LINE OF THAT PARCEL OF LAND AS DESCRIBED IN RECEPTION NO. 3427303; THENCE ALONG THE EASTERLY BOUNDARY OF SAID PARCEL DESCRIBED AT RECEPTION NO. 3427303 AND THE EASTERLY BOUNDARY OF THAT PARCEL OF LAND DESCRIBED AT RECEPTION NO. 3414623, NORTH 00°26'39" WEST 832.56 FEET TO A POINT ON THE SOUTH BOUNDARY LINE OF THAT PARCEL AS DESCRIBED IN RECEPTION NO. 3349526; THENCE ALONG THE BOUNDARY OF SAID PARCEL THE FOLLOWING 2 COURSES: 1) NORTH 88°49'54" EAST 318.27 FEET; 2) NORTH 01°09'47" WEST 575.55 FEET TO A POINT ON THE SOUTH BOUNDARY LINE OF MULLIGAN RESERVOIR; THENCE ALONG SAID BOUNDARY LINE THE FOLLOWING 4 COURSES: 1) NORTH 69°39'13" EAST 169.80 FEET; 2) NORTH 68°45'13" EAST 215.60 FEET; 3) NORTH 49°12'13" EAST 222.60 FEET; 4) NORTH 39°41'13" EAST 215.09 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL AS DESCRIBED IN RECEPTION NO. 2881653; THENCE ALONG THE SOUTH BOUNDARY LINE OF SAID PARCEL NORTH 89°23'13" EAST 223.17 FEET; THENCE SOUTH 00°36'47" EAST 2219.59 FEET TO THE POINT OF BEGINNING.

THUS DESCRIBED TRACT CONTAINS 43.876 ACRES, MORE OR LESS.

THE ABOVE DESCRIBED PARCEL CONTAINING 156.933 NET ACRES, MORE OR LESS.

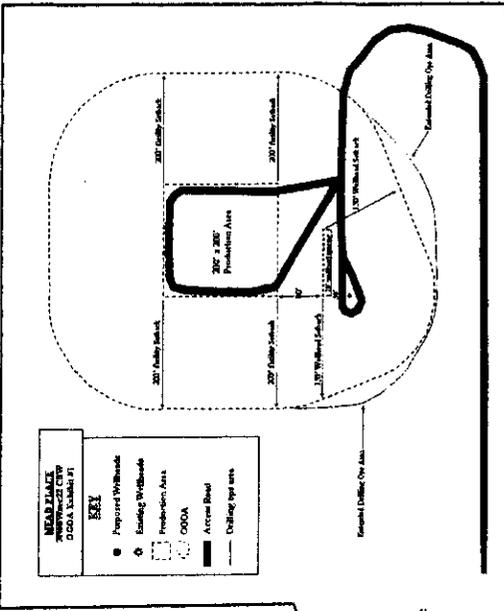
3601264 01/26/2009 11:33A Weld County, CO  
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**Exhibit B**  
**to Surface Use Agreement effective \_\_\_\_\_, 2008**  
**between Kerr-McGee Oil & Gas Onshore LP and MEAD PARTNERS OPERATING CO.,**  
**LLC; ROBERT C. CHANSLER and RODNEY J. SCHMIDT all controlled by EQUINOX**  
**MEAD, LLC.**

**OIL & GAS OPERATIONS AREA(s)**

**Exhibit B1**

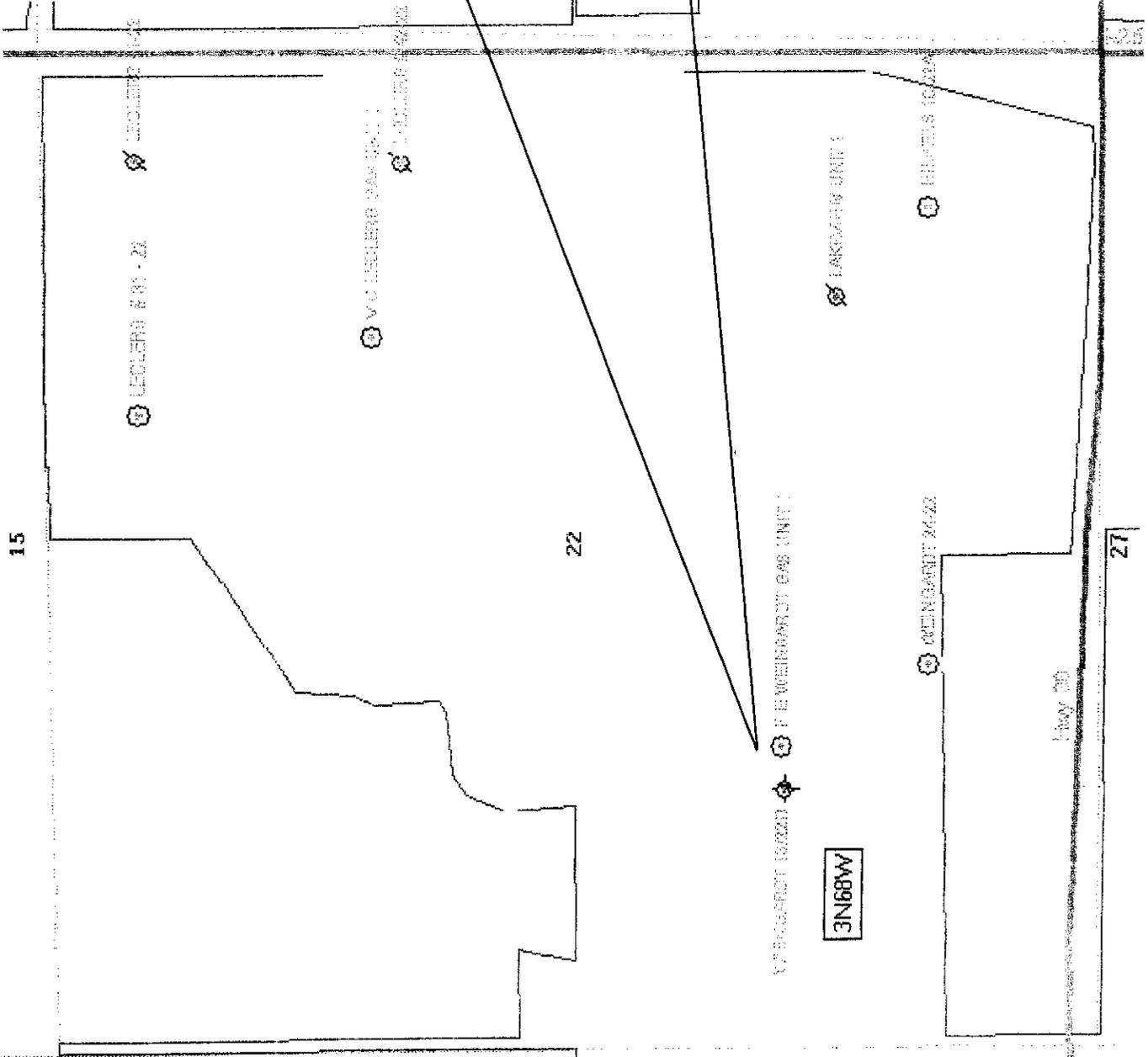
**Mead Place**  
**3N68Wsec22 CSW**



**MEAD PLACE**  
 3N68Wsec22 CSW  
 DCOAL SURMAY PT

**SEE**

- Proposed Wellbore
- Existing Wellbore
- Protraction Area
- OOOA
- Access Road
- Drilling Operation





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Exhibit C

to Surface Use Agreement effective \_\_\_\_\_, 2008  
between Kerr-McGee Oil & Gas Onshore LP and MEAD PARTNERS OPERATING CO.,  
LLC; ROBERT C. CHANSLER and RODNEY J. SCHMIDT all controlled by EQUINOX  
MEAD, LLC.

PIPELINE RELOCATION AGREEMENT and PIPELINE RIGHT OF WAY GRAT

# Exhibit C1

## AGREEMENT FOR RELOCATION OF PIPELINE AND RIGHT-OF-WAY

THIS AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("\_\_\_\_\_"), whose address is \_\_\_\_\_, and Kerr-McGee Gathering LLC ("KMGG"), a Colorado limited liability company, whose address is 1099 18<sup>th</sup> Street, Denver, Colorado 80202.

### RECITALS

A. KMGG is the successor in interest to a Right-of-Way Grant ("Easement") across a portion of the  /4 of Section \_\_\_\_\_, Township \_\_\_\_\_ North, Range \_\_\_\_\_ West of the 6th P.M. in Weld County, Colorado. The Easement was originally conveyed to \_\_\_\_\_ for natural gas pipeline purposes by instrument recorded \_\_\_\_\_, reception # \_\_\_\_\_, of the records of the Weld County Clerk and Recorder. (For a list of several easements, we could insert language here: "as is listed in Exhibit "G".)

B. \_\_\_\_\_ is the current owner (This part may vary – owner, contract purchaser) of a portion of the \_\_\_\_\_ ( /4 or /2) of Section \_\_\_\_\_ of Township \_\_\_\_\_ North, Range \_\_\_\_\_ West, 6<sup>th</sup> P.M., Weld County, Colorado (the "Property").

C. \_\_\_\_\_ plans to develop the surface of the Property as a "Type of Development" \_\_\_\_\_ known as \_\_\_\_\_ "Name of Development" \_\_\_\_\_.

D. In order to accommodate the proposed development of the Property by \_\_\_\_\_, KMGG agrees to release a portion of the Easement lying within and across the Property and in consideration therefore, \_\_\_\_\_ agrees to provide a Right-of-Way so that KMGG's pipeline(s) can be physically relocated and operated.

**NOW, THEREFORE**, in consideration of the covenants contained herein and the mutual benefits to be derived, KMGG and \_\_\_\_\_ agree as follows:

1. Partial Release of Easement. KMGG shall execute and deliver a Partial Release of Easement (Exhibit "D") relinquishing and quitclaiming unto \_\_\_\_\_, the Easement, insofar, and only insofar, as it crosses or lies within the Property. Said Partial Release of Easement will be provided after delivery of the New Right-of-Way, as provided below, and after the physical relocation of the pipeline(s) and the tie-in of the relocated pipeline(s). *(To be used as applicable.)*

2. Amendment of Right-of-Way. Upon removal and rerouting of the existing pipelines from their current locations, KMGG shall execute and deliver an Amendment of Right-of-Way on the form attached hereto as Exhibit "A" and incorporated herein by this reference, amending permanently KMGG's pipeline Right-of-Way to the route(s) set forth and described in Exhibit "B" attached hereto which shall be attached to the Amendment as Exhibit "A". The Amendment will be provided after the physical relocation of the pipeline(s) and the tie-in of the relocated pipeline(s). *(To be used as applicable.)*

3. Conveyance of Right-of-Way. \_\_\_\_\_ hereby agrees to provide and deliver to KMGG, prior to the actual placement and operation of new pipeline, an executed and recordable New Right-of-Way conveying unto KMGG, its successors and assigns, a perpetual right-of-way and easement for pipeline purposes on the form attached hereto as Exhibit "C". The New Right-of-Way shall be for the purposes of, and convey rights to survey, construct, install, maintain, inspect, operate, repair, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove, at KMGG's election, pipelines and all appurtenances, above or below ground, reasonably necessary or convenient for the transportation or transmission of oil, gas, petroleum products, water, hydrocarbons, and any other substances, whether fluid or gaseous, and any products, derivatives, combinations or mixtures of any of the foregoing. The width of the New Right-of-Way shall be fifty feet (50') during construction of the relocated portion of the pipeline(s) and any maintenance thereto, and subsequent to construction shall be thirty feet (30'). *(To be used as applicable.)*





4. Title and Authority. \_\_\_\_\_ represents and warrants to KMGG that \_\_\_\_\_ is the sole owner in fee simple or the contract purchaser of the lands described in Exhibit "B" and Exhibit "C", being the route(s) of the Amended Right-of-Way and new Right-of-Way, respectively, and that \_\_\_\_\_ has full power, right and authority to execute and deliver the Amendment of the Right-of-Way and new Rights-of-Way.

5. Senior Rights. KMGG acknowledges that all routes are non-exclusive and agrees that it will not object to the concurrent use of the routes by \_\_\_\_\_, utilities providers and other operators as \_\_\_\_\_ may grant from time to time; provided, however, that such concurrent use does not in any way interfere with the use of the routes by KMGG. All pipes shall be placed with a minimum horizontal clearance of ten (10) feet from all other pipelines and utilities; and a minimum vertical clearance of eighteen (18) inches from all other pipelines and utilities. KMGG's "General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr- McGee Oil & Gas Onshore LP Pipelines and Related Facilities", shall be strictly adhered to at all times. Said General Guidelines are attached hereto as Exhibit "F". \_\_\_\_\_ further represents and warrants that it has full power, right and authority to enter into this Agreement and to make the covenants set forth herein.

6. Title Insurance. \_\_\_\_\_ must deliver to KMGG a title commitment from an insurer acceptable to KMGG with any request for the relocation of any pipeline. If any of the exceptions contained in Schedule B-2 of said title commitment are (i) senior liens or encumbrances on the land upon which the right(s)-of-way to be granted to KMGG pursuant to this Agreement are to be located or (ii) deemed by KMGG to infringe on its right of free use and enjoyment of new right(s)-of-way granted under this Agreement, the liens or encumbrances must be released or subordinated and any infringements must be cured by \_\_\_\_\_ prior to the relocation of any pipelines. Prior to commencing any relocation activities, \_\_\_\_\_ must furnish KMGG with a policy of title insurance insuring KMGG's title to its right(s)-of-way against any senior lien or encumbrance and against any interest that may interfere with KMGG's quiet enjoyment of the right(s)-of-way to be granted pursuant to this Agreement. KMGG will not be required to relocate any pipeline unless and until it has been furnished with a policy of title insurance that is satisfactory to it.

7. Pipeline Relocation Expense. KMGG has prepared a good faith estimate of the costs and expenses to be incurred in the pipeline relocation project and a summary of those costs and expenses is set forth on Exhibit "E" hereto. Costs include KMGG's corporate overhead of fifteen percent (15%) for the legal, engineering, and other administrative costs necessary to process and complete the relocation. Upon execution of this Agreement, \_\_\_\_\_ will pay KMGG the total estimated cost of pipeline relocation, which is \$ \_\_\_\_\_. It is understood that this amount is only an estimate and that \_\_\_\_\_ shall be obligated to pay or reimburse KMGG for all actual costs and expenses related to the pipeline relocation. Upon conclusion of the relocation, the parties shall reconcile the costs incurred and payments made, with appropriate adjustments and reimbursements to \_\_\_\_\_ or supplemental payments to KMGG being made within one-hundred twenty (120) days after the pipeline relocation is completed.

8. Amendments. This Agreement cannot be modified, except by a written agreement signed by both parties hereto.

9. Binding Effect. The rights granted herein may be assigned in whole or in part, and the terms, conditions, and provisions of this Agreement shall be a covenant running with the Property and shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of \_\_\_\_\_ and KMGG.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

\_\_\_\_\_

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



Title: \_\_\_\_\_

**KERR-MCGEE GATHERING LLC**  
a Colorado limited liability company  
By its manager  
Kerr-McGee Oil & Gas Onshore LP

By: \_\_\_\_\_  
Jane Ann Byroad, Agent and Attorney-in-Fact

STATE OF COLORADO     )  
                                  )ss.  
COUNTY OF             )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2006, by \_\_\_\_\_, as \_\_\_\_\_, on behalf of \_\_\_\_\_.

Witness my hand and official Seal.

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

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

(SEAL)

STATE OF TEXAS             )  
                                  )ss.  
COUNTY OF MONTGOMERY     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by Jane Ann Byroad as Agent and Attorney-in-Fact for Kerr-McGee Oil  
& Gas Onshore LP, a Delaware Limited Partnership, in its capacity as Manager of Kerr-McGee  
Gathering LLC, a Colorado limited liability company, on behalf of such company.

WITNESS my hand and official seal.

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

My commission expires: \_\_\_\_\_

(SEAL)



Exhibit C2

**RIGHT-OF-WAY GRANT**

**THIS RIGHT-OF-WAY GRANT** ("Grant) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2008, from \_\_\_\_\_, whose address is, \_\_\_\_\_, Colorado \_\_\_\_\_ ("Grantor"), to Kerr-McGee \_\_\_\_\_, a Colorado limited liability company, whose address is 1099 18<sup>th</sup> Street, 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(s) and easement(s) to survey, construct, maintain, inspect, operate, repair, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove, at Grantee's election, pipelines and all appurtenances, below and/or above ground, including but not limited to launchers and receivers, convenient for the transportation or transmission of oil, gas, petroleum products, water, hydrocarbons and any other substances, whether 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 \_\_\_\_\_ County, State of Colorado, being described as follows:

**TOWNSHIP NORTH, RANGE WEST, 6<sup>TH</sup> PM**  
Section :

The specific route and course of the right-of-way(s) and easement(s) conveyed hereby ("Right-of-Way Lands") is more particularly described on Exhibit "A" attached hereto and made a part hereof. The width of the Right-of-Way Lands during construction shall be fifty feet (50'), and subsequent to construction shall be thirty feet (30').

Grantors represent and warrant to Grantee that Grantors are the sole owner in fee simple of the Right-of-Way Lands and have full right, power and authority to make this Grant.

Grantee shall lay all pipe at a depth of not less than 48 inches. Grantee shall repair and/or restore any fence on or adjacent to the Right-of-Way Lands removed or severed by Grantee in the course of the operations provided for in this Grant. If necessary to prevent the escape of Grantor's livestock, Grantee shall construct temporary gates or fences.

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 right of ingress and egress over and across Grantor's lands lying adjacent to the Right-of-Way Lands for any and all purposes necessary and incidental to exercising Grantee's rights hereunder. Grantors agree not to build, create, construct or permit to be built, created or constructed, any obstruction, building, fence, landscaping, reservoir, engineering works or other structures or improvements over, under, on or across the Right-of-Way Lands without prior written consent of Grantee.



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

This Grant cannot be modified, except in writing signed by all parties hereto.

The rights granted herein may be assigned in whole or in part, and the terms, conditions, and provisions of this Grant are a covenant running with the land and shall extend to and be binding upon the successors, and assigns of Grantors and Grantee.

Grantee agrees to level and restore any lands that may have excessive settling and sufficiently compact the soil within a reasonable period of time after completion of construction.

This Grant may be executed in counterparts each of which shall be considered one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Grant as of the date first above written.

Grantors:

Grantee:

Kerr-McGee \_\_\_\_\_

By its Manager,

Kerr-McGee Oil & Gas Onshore LP,

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

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

\_\_\_\_\_, Attorney-in-Fact



STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by

\_\_\_\_\_, as \_\_\_\_\_.

Witness my hand and official Seal.

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

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, as Attorney-in-Fact of Kerr-McGee \_\_\_\_\_, a \_\_\_\_\_, in its capacity as Manager of Kerr-McGee Gathering LLC, a Colorado limited liability company, on behalf of such company.

Witness my hand and official Seal.

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

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



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Exhibit D  
to Surface Use Agreement effective \_\_\_\_\_, 2008  
between Kerr-McGee Oil & Gas Onshore LP and MEAD PARTNERS OPERATING CO.,  
LLC; ROBERT C. CHANSLER and RODNEY J. SCHMIDT all controlled by EQUINOX  
MEAD, LLC.

**GUIDELINES for DESIGN and CONSTRUCTION ACTIVITIES**

## Exhibit D



### **General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP 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 (KMG) right-of-way (ROW). These are not intended to, nor do they waive or modify any rights KMG may have under existing easements or ROW agreements. For information regarding KMG'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 KMG 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 KMG in the below requirements is meant to include and apply to any Kerr McGee entity.

#### **Design**

- KMG shall be provided sufficient prior notice of planned activities involving excavation, blasting, or any type of construction on KMG's ROW or near its facilities. This is to determine and resolve any location, grade or encroachment problems and allow for the protection of KMG'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 KMG 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 KMG's ROW. The encroaching entity shall also provide a set of "as-built drawings" and submit to KMG, showing the facilities in the vicinity of KMG's ROW upon completion of the work.
- Only facilities shown on drawings reviewed by KMG will be approved for installation on KMG's ROW. All drawing revisions that affect facilities proposed to be placed on KMG's ROW must be approved by KMG in writing.
- KMG shall approve the design of all permanent road crossings.
- Any repair to surface facilities following future pipeline maintenance or repair work by KMG on it's "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 KMG on replacement ROW granted to relocate KMG 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 KMG.
- The depth of cover over the KMG pipelines shall not be increased or reduced nor surface modified for drainage without KMG's written approval.
- Construction of any permanent structure within KMG pipeline easement is not permitted without written approval by KMG.
- Planting of shrubs and trees is not permitted on KMG pipeline easement without written approval by KMG.
- Irrigation equipment i.e. backflow prevent devices, meters, valves, valve boxes, etc. shall not be located on KMG easement without written approval by KMG.
- Foreign utility installations, i.e. distribution gas, oil and gas gathering, water, electric, telephone, cable and sewer lines, etc., may cross perpendicular to KMG's pipeline within the ROW, provided that a minimum of eighteen inches (18") of vertical clearance is maintained between KMG 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 KMG. In no case will vertical separation be less than 12" whether written or not. Constant line elevations must be maintained across KMG's entire ROW width, gravity drain lines are the only exception and must be approved in writing. Foreign line crossings below the KMG pipeline must be evaluated by KMG to ensure that a significant length of the KMG line is not exposed and unsupported during construction. Foreign line crossings above the KMG pipeline with less than 18" of clearance must be evaluated by KMG to ensure that additional support is not necessary to prevent settling on top of the KMG natural gas pipeline. A KMG representative must be on site during any crossing activities to verify clearance depths and to assure the integrity and support of the KMG facility. All installations of foreign crossings done by boring and or jacking require the KMG facility to be exposed to verify clearances.
- Foreign utilities shall not run parallel to KMG pipelines within the KMG easement without written permission by KMG. A minimum of 10.0 feet of horizontal separation must be maintained in parallel installations whether the foreign utility is placed within the KMG easement or adjacent to the KMG easement. Any deviation from the 10.0' horizontal requirement must be approved in writing by KMG and an "as built survey" provided to KMG after installation.

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## General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP Pipelines and Related Facilities

- The foreign utility should be advised that KMG maintains cathodic protection on its pipelines and facilities. The foreign utility must coordinate their cathodic protection system with KMG's. At the request of KMG, 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 KMG 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 KMG. All costs associated with the correction of cathodic protection interference issues on KMG 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 KMG 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 KMG, the safety of the public, contractor, KMG personnel and KMG 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 KMG ROW.
- No power poles, light standards, etc. shall be installed in the KMG easement without written approval by KMG.
- KMG 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 KMG's sole discretion, and may exceed any regulatory requirements.

### Construction

- If KMG will be relocating KMG facilities for any entity, grading in the new KMG ROW shall be +/- 6 inches before KMG will mobilize to complete the relocation. Final cover after the completion of the project will not be less than 48" nor more than 72". All cover that exceeds 72" or less than 48" will be approved in writing by KMG. Cover during all construction activities will NEVER be less than 36" unless approved in writing and a KMG 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 KMG facilities. The entity requesting relocation is solely responsible for the final depth of cover over the relocated KMG 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 KMG's requirements and be contractually obligated to comply.
- The continued integrity of KMG's pipelines and the safety of all individuals in the area of proposed work near KMG's facilities are of the utmost importance. Therefore, contractor must meet with KMG representatives prior to construction to provide and receive notification listings for appropriate area operations and emergency personnel. KMG'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.
- The Contractor must expose all KMG pipelines prior to crossing to determine the exact alignment and depth of the lines. A KMG representative must be present.
- The use of probing rods for pipeline locating shall be performed by KMG representatives only, to prevent unnecessary damage to the pipeline coating. A KMG representative shall do all line locating.
- Notification shall be given to KMG 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 KMG's work site representative. Any Contractor schedule changes shall be provided to KMG immediately.

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**General Guidelines for Design and Construction Activities On or Near  
Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP  
Pipelines and Related Facilities**

- Heavy equipment will not be allowed to operate directly over KMG pipelines or in KMG ROW unless written approval is obtained from KMG. Heavy equipment shall only be allowed to cross KMG pipelines at locations designated by KMG. 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 KMG.
- Contractor shall comply with all precautionary measures required by KMG, 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 lines.
- Excavating or grading which might result in erosion or which could render the KMG ROW inaccessible shall not be permitted unless the contractor agrees to restore the area to its original condition and provide protection to KMG's facility. At no time will cover be reduced to less than 36" without written approval by KMG and a KMG representative on site.
- A KMG representative shall be on-site to monitor any construction activities within twenty-five (25) feet of a KMG pipeline or aboveground appurtenance. The contractor shall not work within this distance without a KMG representative being on site. Contractor shall use extreme caution and take any appropriate measures to protect KMG facilities.
- Ripping is only allowed when the position of the pipe is known and not within ten (10) feet of KMG facility. KMG personnel must be present.
- Temporary support of any exposed KMG pipeline by Contractor may be necessary if required by KMG'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 KMG's on-site representative and thoroughly compacted in 12" lifts to 95% of standard proctor dry density minimum or as approved by KMG'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 KMG's facilities unless blasting notification is given to KMG including complete Blasting Plan Data. A pre-blast meeting shall be conducted by the organization responsible for blasting.

KMG 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 KMG's facilities as a result of their activities whether or not KMG representatives are present. KMG 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 KMG's facilities unless blasting notification is given to KMG a minimum of one week before blasting. The organization responsible for blasting must complete Blasting Plan Data. KMG 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 KMG. A written emergency plan shall be provided by the organization responsible for blasting.

KMG 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.

- Any contact with any KMG facility, pipeline, valve set, etc. shall be reported immediately to KMG. 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.
- KMG personnel shall install all test leads on KMG facilities.

**Local Kerr-McGee Gathering LLC Representation:**

Manager of Construction & Facilities Engineering:	Kevin R. Osif, P.E.	Phone: 303 655 - 4307
Facilities Engineer:	Joseph E. Sanchez, P.E.	Phone: 303 655 - 4319
Foreman 1:	James Phillips	Phone: 303 655 - 4343
Foreman 1:	Rick Noffsinger	Phone: 303-655 - 4326

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**General Guidelines for Design and Construction Activities On or Near  
Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP  
Pipelines and Related Facilities**

**Emergency Contacts:**

On call supervisor  
Kerr McGee 24 hour emergency number  
One Call Emergency

Phone: 303-559 - 4001  
Phone: 303-659 - 5922  
Phone: 800-922 -1987



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