

**AMENDED AND RESTATED
Compatible Development and Surface Use Agreement**

THIS AMENDED AND RESTATED COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT (this “**Agreement**”), dated November 21, 2016, is by and between **AGGREGATE INDUSTRIES-WCR, INC.**, a Colorado corporation, (“**AI**”), 1687 Cole Blvd., Suite 300, Golden, Colorado 80401 and **SYNERGY RESOURCES CORPORATION** (“**Synergy**”), 20203 Highway 60, Platteville, Colorado 80651. Synergy and AI may be individually referred to as a “**Party**”, and together as the “**Parties**.”

RECITALS

- A. AI is the current landowner of that part of the E/2NE/4 of Section 32, Township 6 North, Range 66 West, 6th P.M., Weld County, Colorado, more particularly described on “**Exhibit A**” (the “**Property**”).
- B. The Property is permitted for, owned and operated by AI for sand and gravel operations and reclamation activities, among other uses.
- C. Synergy owns oil and gas leasehold interests in the Property.
- D. On or about March 5, 2015, AI and Synergy entered into a Compatible Development Surface Use Agreement (“**2015 Agreement**”) providing for the compatible development of the oil and gas estate and the surface estate and setting forth the rights and obligations of the Parties with respect to the development of their respective interests in the Property, with all such rights and obligations to be binding upon the Parties and their successors and assigns. This Agreement replaces the 2015 Agreement.
- E. Exhibit B, Production Facility Layout, to the 2015 Agreement is replaced in its entirety by the attached Exhibit B (“**Exhibit B**”).
- F. Exhibit C to the 2015 Agreement, Memorandum of Agreement, is deleted in its entirety. This Agreement with Exhibit A and Exhibit B will be recorded in the real property records of Weld County, Colorado, in lieu of a memorandum of agreement.

AGREEMENT

In consideration of the mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Surface Use

a. Synergy acknowledges that the Property is located within the boundaries of AI’s Division of Reclamation, Mining and Safety (DRMS) 112 Construction Materials Permit No. M-1999-098, Riverview Resource, as approved by the Colorado Mined Land Reclamation Board, and that AI’s sand and gravel mining operations and reclamation activities will occur within 200 feet of Grantee’s proposed structures within the Property. AI retains all rights to mine for sand and gravel to within 90 feet of any existing or future oil, gas or other well owned in whole or in part or operated by Synergy, on the Property (“**Well**”), to within 75 feet of a Production Facility (defined in Section 2.b.), and to within 15 feet of any Pipeline (defined in Section 4.a.).

b. Synergy shall have the right to drill not more than twelve directional and/or horizontal wells (the “**Wells**”) from the Oil and Gas Operations Area (defined in Section 2.a.). Synergy shall pay AI the amounts set forth in a compensation letter agreement executed by Synergy and AI contemporaneously with this Agreement (the “**Well Payments**”). The Well Payments cover usual and customary damages associated with drilling the Wells, and the installation of associated production equipment.

c. In addition to the compensation provided for in Section 1.b, Synergy shall compensate AI for damages to personal property or to improvements on the Property, such as damages to buildings, fences, gates, culverts and livestock, and for other such losses or damages caused by Synergy, its agents, contractors or employees, which are not usual and customary. Synergy agrees to promptly compensate AI for such losses and damages.

2. Oil and Gas Operations Area

a. Synergy shall conduct all oil and gas operations and locate all oil and gas facilities in the “**Oil and Gas Operations Area**” depicted and described on the attached **Exhibit B**, which depicts the location of Existing Wells (defined in Section 2.d.), the Wells and related Production Facilities (defined in Section 2.b.). All oil and gas operations by Synergy, including, exploration, drilling of wells and production activities, workovers, well deepenings, recompletions, fracturing, the drilling of twinned and replacement wells shall be conducted in the Oil and Gas Operations Area. Notwithstanding anything to the contrary in this Agreement, no salt water or produced water disposal or injection well may be drilled from or located on the Property, including the Oil and Gas Operations Area. Oil and gas operations shall not be conducted on any surface of the Property outside the Oil and Gas Operations Area, except by written amendment to this Agreement.

b. Synergy shall locate, build, repair and maintain tanks, separators, dehydrators, compressors and all other associated oil and gas drilling, operating and production equipment and facilities related to the Wells (the “**Production Facility**” or “**Production Facilities**”) in the Oil and Gas Operations Area.

c. Production Facilities in the Oil and Gas Operations Area shall only be used to service the Existing Wells and the Wells.

d. **Exhibit B** depicts all wells located on the Property on the date of this Agreement (the “**Existing Wells**”), and related production facilities. Existing Wells shall be plugged and abandoned, and production facilities related to Existing Wells removed from the Property, by Synergy no later than twelve (12) months after the completion of drilling operations for the first Well drilled by Synergy. The affected lands shall be reclaimed in accordance with Colorado Oil and Gas Conservation Commission (“**COGCC**”) Rules.

3. Extraction of Sand and Gravel in Vicinity of Oil and Gas Operations Area; Setback Requirements

a. AI reserves the right, in accordance with the terms of this Agreement, to mine the sand and gravel, including aggregate (“**Aggregate**”), in, on or under the Oil and Gas Operations Area, provided that AI’s mining operations are located no closer than 90 feet from any Well, nor closer than 75 feet from a Production Facility owned or operated by Synergy in the Oil and Gas Operations Area.

b. In the event that Synergy intends to drill a well within the Oil and Gas Operations Area, it shall give written notice to AI and meet and consult at the Well location site with AI, as required by COGCC Rules, and the Parties shall coordinate mining operations with oil and gas operations.

4. Gathering Lines and Flowlines

a. All of Synergy's gathering, transportation, sales, water and other pipelines, and/or those of Synergy's third-party transporters, gatherers or sellers, together with above-ground gas meters and related equipment, and all underground electrical and data transmission lines ("**Pipelines**"), shall be located in the pipeline corridors ("**Pipeline Corridors**") shown on Exhibit B.

b. Synergy, and/or its third-party transporters, gatherers or sellers, shall have the right to construct, maintain, loop, operate, repair, replace, and remove Pipelines, together with all necessary valves, connections, and fittings for the transportation of oil, gas, and water, (and to install, maintain and remove cathodic protection equipment if required by COGCC Rules or other applicable law), on, over, under, through and across the Pipeline Corridors, provided that each corridor shall be no more than fifty (50) feet in width during construction and no more than thirty (30) feet in width centered on the pipeline after construction. All pipelines shall be buried at least forty-eight (48) inches below the surface of the ground.

c. AI may require Synergy to re-locate any existing Pipeline; provided, however, all costs, risk and expense of such relocations shall be borne by AI. AI and Synergy shall enter into a pipeline relocation agreement prior to the relocation of all or any portion of an existing Pipeline. The Parties shall cooperate with each other to implement pipeline relocations and shall not unreasonably interfere with the operations of the other Party.

d. Within ninety (90) days of construction of any new pipeline, Synergy shall install and maintain permanent markers along the pipeline right-of-way at minimum 50-foot intervals at Synergy's expense.

e. AI retains all rights to mine for sand and gravel up to the boundary line of Pipeline Corridors.

5. Roads and Access

a. Synergy's access (for all equipment, vehicles and personnel) to, from and across the Property shall be limited to the entry point and access road shown on Exhibit B or any substitute roads mutually agreed upon by the Parties ("**Temporary Access**"). AI hereby acknowledges and agrees that Synergy has the right to use such entry point and access road only subject to the terms of this Agreement.

b. Upon the completion of Synergy's drilling operations on the Wells, Synergy shall use commercially reasonable and diligent efforts to obtain any necessary governmental approvals required to relocate its entry point and access to the Property to a point of entry and access from County Road 64 at locations mutually agreeable to Synergy and AI ("**Permanent Access**"). Upon Synergy's receipt of such approvals, Synergy shall relocate its entry point and access to the Property to the Permanent Access lands, and abandon and reclaim the Temporary Access lands. All cost, risk and expense of relocation from the Temporary Access to the Permanent Access shall be borne by Synergy.

c. At AI's option and upon reasonable written notice to Synergy, AI may require Operator to utilize one or more reasonable alternative access roads. Such point(s) of entry and any necessary additional roads shall be constructed at AI's expense within a reasonable period of time after such notice, and shall be thereafter be maintained by Synergy at its expense.

d. Synergy shall maintain roads utilized by it on the Property with an adequate crown and in good and passable condition. Synergy shall apply a dust suppression treatment acceptable to AI to all roads at reasonable intervals.

e. In the event that joint access roads need to be improved in order to serve the needs of Synergy, such improvements shall be made at the sole cost and expense of Synergy.

6. Production Facility Locations

a. Synergy shall have the right to locate, build, repair and maintain Production Facilities in the Oil and Gas Operations Area as depicted on **Exhibit B** (“**Production Facility Locations**”).

b. With respect to Production Facilities other than flowlines and Pipelines:

i. Synergy shall install and maintain, at its sole cost and expense, fences around the Wells and Production Facilities.

ii. Synergy shall install and maintain, at its sole cost and expense, all gates and locks reasonably necessary for the security of the Wells and Production Facilities, or as requested by AI.

7. Notice of Operations

Synergy shall provide at least seven (7) days’ prior written notice to AI of operations in connection with reworking, fracturing, deepening or recompletion operations on the Wells; provided, however, Synergy shall provide at least thirty (30) days’ prior written notice to AI of the initial drilling of the Wells.

After receipt of the above notice, but not less than five (5) working days prior to the date that Synergy plans to commence drilling operations within an Oil and Gas Operations Area, Synergy or AI may request an on-site meeting. The purpose of the meeting shall be for the Parties to inform one another of the proposed mining or oil and gas drilling operations and to coordinate site access, hazards, barricades, restoration or any other issues that may affect the use and development of the Property by the Parties.

8. Consents and Waivers

Synergy is expressly granted consent to locate not more than 12 wells within the Oil and Gas Operations Area, and for each of the 12 wells Synergy proposes within the Oil and Gas Operations Area, AI shall support Synergy’s efforts to permit such wells with the applicable regulatory agency, including granting consent to locate any well greater than 50 feet from an existing well pursuant to COGCC Rule 318A.(c) and granting consent to locate any well outside of the GWA windows as defined in COGCC Rule 318A.(a). Synergy may cite the waiver in this paragraph in order to obtain a location exception or variance under COGCC rules or from any other state or local governmental body. AI agrees not to object to Synergy's use of the surface so long as such use is consistent with this Agreement.

9. Compliance with Environmental Law and Safety Regulations

Synergy understands that the surface mining operations of AI on the Property are subject to certain Mine Safety and Health Administration (“MSHA”) regulations. Synergy agrees that, while conducting its oil and gas operations on the Property, it will use reasonable efforts to comply with MSHA

requirements that AI notifies Synergy in writing are applicable to their operations on the Property. Synergy agrees to notify its contractors and subcontractors about such requirements.

10. Mining Plans

AI has provided copies to Synergy of their Mining Permit plats prepared in connection with the Mining Permit (the “**Plans**”). Synergy acknowledges receipt of the Plans and does not object to the Plans; provided that the Plans remain consistent with this Agreement. Furthermore, Synergy agrees that upon execution of this Agreement, it shall not oppose any other surface use or surface development plan of AI if such use or plan is proposed and carried out consistent with the terms of this Agreement. AI will notify Synergy in writing of any amendments to DRMS Permit No. M-1998-09 or Weld County USR #897 at the time any such amendment is filed with DRMS or with the Weld County Planning Department. This acceptance by Synergy and agreement to not oppose AI’s applications in no way waives Synergy’s rights in this Agreement or obligations of AI under the terms of this Agreement.

11. Restricted Use of the Surface by Synergy

Except for the Oil and Gas Operations Area, Production Facility Locations, Pipeline Corridors, flowlines and the access roads provided for in this Agreement, Synergy shall not occupy the surface of the Property, except in the event of an emergency and Synergy shall be responsible for any resulting damages that may occur to the Property.

12. 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.

b. Except as to claims arising out of pollution or environmental damage (which claims are governed by Section 13 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, reasonable attorneys’ 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 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. This provision does not, and shall not be construed to, create any rights in any person or entity 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.

13. Environmental Indemnity

The provisions of Section 12, except for Section 12.a., shall not apply to any environmental matters, which shall be governed exclusively by the following, subject to the limitations of Section 12.a. above:

a. “Environmental Claims” shall mean all Claims asserted by governmental bodies, the Parties or third parties for pollution or environmental damage of any kind, arising from operations on the Property 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 material. Environmental Claims shall not include the costs of any 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 laws, regulations, rules, ordinances, or order of any governmental authority(ies) which relate to or otherwise impose liability, obligations, or standards with respect to pollution or the protection of public health and/or 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, the Toxic Substances Control Act (15 U.S.C. §§ 2601-2629 et seq.), and state-equivalents of such laws, regulations, rules, ordinance, or order of any governmental authority(ies).

c. Environmental Indemnification. Synergy shall defend, indemnify and hold harmless AI, their successors and assigns, from Environmental Claims relating to the Property that arise out of Synergy's ownership and operations on the Property. AI shall defend, indemnify and hold harmless Synergy, its successors and assigns, from Environmental Claims relating to the Property that arise out of AI's ownership and operations on the Property. Notwithstanding the foregoing, each Party shall be responsible for and shall protect, indemnify and hold harmless the other Party and its officers, directors, employees, successors and assigns, from Environmental Claims arising out of or damages caused by such Party's own operations and activities on the Property.

14. Exclusion from Indemnities

The indemnities of the Parties shall not cover or include any amounts for which the indemnified Party is actually reimbursed by any third party (other than the indemnified Party's own insurer). The indemnities in this Agreement shall not relieve any Party from any obligations to third parties.

15. 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 12 or Section 13, it is a condition precedent to the indemnifying Party's obligations hereunder that the indemnified Party give the indemnifying Party written notice of the Claim setting forth all particulars of the Claim, as known by the indemnified Party, including a copy of the Claim (if it is a written Claim). The indemnified Party shall make a good faith effort to notify the indemnifying Party within ten (10) days of receipt of a Claim and shall effect such notice in all events within such time as will allow the indemnifying Party to defend against such Claim. An indemnifying Party shall not be obligated to reimburse an indemnified Party for amounts paid in settlement of an indemnified Claim unless the indemnifying Party has agreed to the settlement, which agreement shall not be unreasonably withheld or delayed.

16. Representations

Each Party represents that it has the full right and authority to enter into this Agreement with respect to the surface estate or 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 successors and assigns.

18. Term

This Agreement shall become effective as of the date written above and shall remain in full force and effect until all of Synergy's oil and gas leasehold interests in the Property have expired or are terminated, and Synergy has plugged and abandoned all Existing Wells and Wells it operates on the Property and complied with all reclamation and other requirements in its oil and gas leases and of the COGCC and other entities having jurisdiction. At the time this Agreement terminates, the Parties shall execute and record in the records of the Clerk and Recorder of Weld County a termination agreement that states that this Agreement has terminated, except with respect to the indemnities in this Agreement, which indemnities shall survive termination to the extent provided herein.

19. Notices

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

Synergy Resources Corporation
1625 Broadway, Suite 300
Denver, CO 80202
Attention: Nick Spence, COO/Drilling
Fax: 720-616-4301

Aggregate Industries-WCR, Inc.
1687 Cole Boulevard, Suite 300
Golden, CO 80401
Attention: Director of Land and Environment
Fax: 303-716-5295

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

20. Recording of This Agreement

This Agreement with attached Exhibit A and Exhibit B shall be recorded by Synergy in the real property records of the Clerk and Recorder of Weld County, Colorado.

21. Surface Damages; Waiver of Payments

In consideration of the respective rights, obligations and benefits of the Parties as outlined herein, this Agreement shall constitute a surface use or surface damage agreement as described or provided for in any current or future rule or regulation of the COGCC or any local jurisdiction, state statute or at common law and in any oil and gas lease.

22. References

When a reference is made in this Agreement to Sections and Exhibits, such reference will be to a Section of or Exhibit to this Agreement unless otherwise indicated. Whenever the words "include," "includes" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation." Unless the context otherwise requires, (i) "or" is disjunctive but not necessarily

exclusive, (ii) words in the singular include the plural and vice versa, (iii) the words "herein," "hereof," "hereby," "hereunder" and words of similar nature refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited, and (iv) the use in this Agreement of a pronoun in reference to a Party hereto includes the masculine, feminine or neuter, as the context may require. The Exhibits hereto, will be deemed part of this Agreement and included in any reference to this Agreement.

23. 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 either Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including, without limitation.

24. Applicable 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.


25. Entire Agreement

This Agreement sets forth the entire understanding between the Parties 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 the Parties.

26. Binding Effect and Execution

This Agreement runs with the Property, and is binding on the successors and assigns of Synergy and AI. This Agreement may be executed in counterparts, each of which shall be deemed an original instrument, but both of which together shall constitute one and the same instrument. This Agreement is executed by the Parties on the dates set forth in the acknowledgements, but to be effective on the date set forth above.

SYNERGY RESOURCES CORPORATION

By: 
Name: Craig Rasmussen
Title: EVP-BD

AGGREGATE INDUSTRIES-WCR, INC.

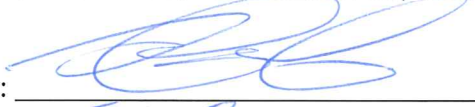
By: 
Name: John Berlin
Title: MOUNTAIN REGIONAL MANAGER

EXHIBIT A

Township 6 North, Range 66 West, 6th P.M.

Section 32: All that portion of Lot B of Recorded Exemption No. 0805-32-1-RE 1539, recorded October 28, 1993, in Book 1408 as Reception No. 2357087, lying in and being a part of the E/2NE/4 of said section, County of Weld, State of Colorado.

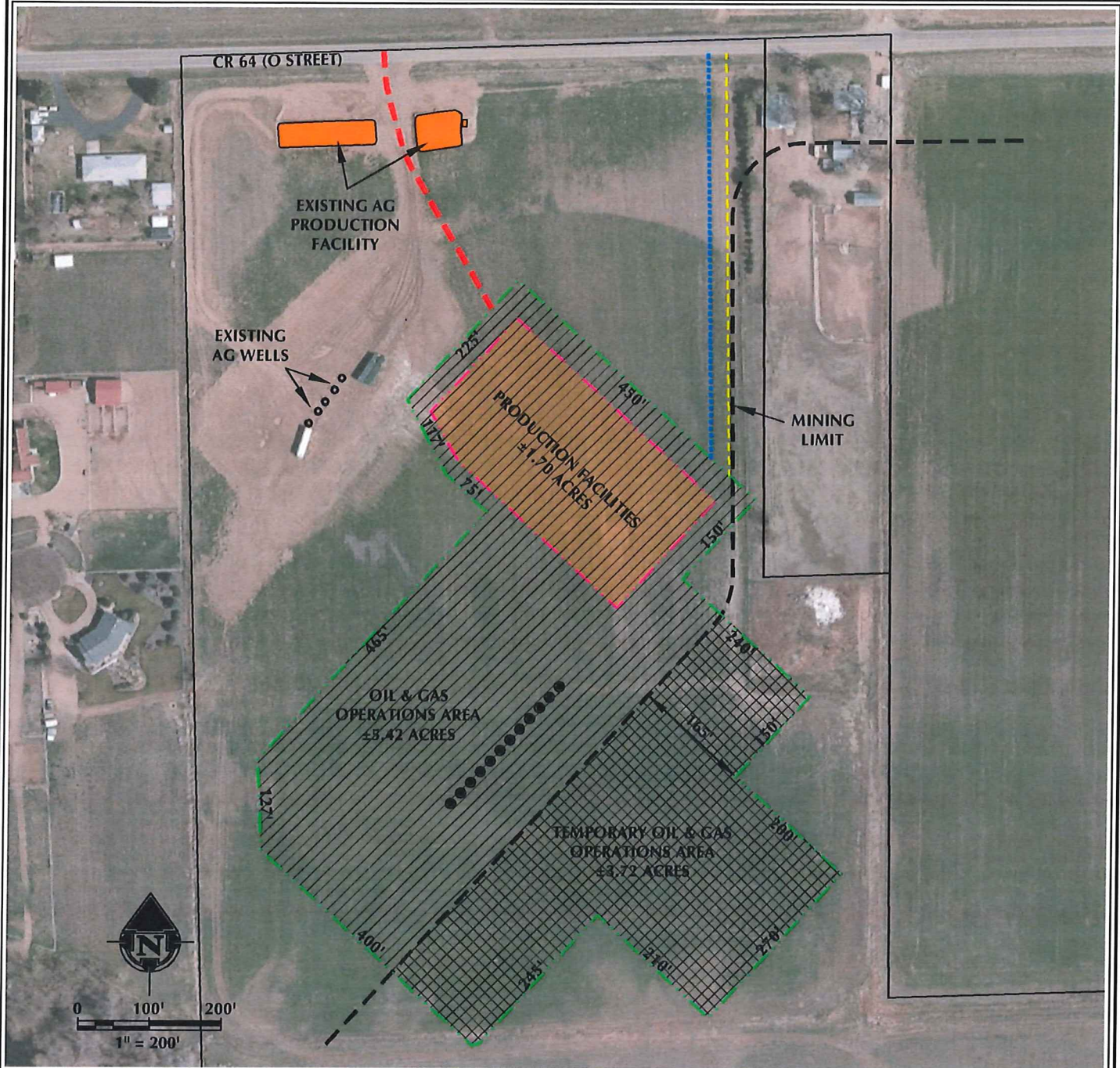
EXHIBIT B

**SURVEY OF PROPERTY SHOWING EXISTING WELL LOCATIONS, WELLS LOCATIONS,
OIL AND GAS OPERATIONS AREA, PRODUCTION FACILITIES, PIPELINES,
PIPELINE CORRIDORS AND ACCESS**

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EXHIBIT "B"

E1/2 NE1/4 SECTION 32, TOWNSHIP 6 NORTH, RANGE 66 WEST, 6TH P.M.



LEGEND

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|---|--|---|--|
|  | OIL & GAS OPERATIONS AREA | | PROPERTY LINE |
|  | TEMPORARY OIL & GAS OPERATIONS AREA |  | EXISTING AG PRODUCTION FACILITY |
|  | PRODUCTION FACILITIES |  | EXISTING AG WELLS |
|  | TEMPORARY ACCESS |  | PROPOSED AG WELLS |
|  | PERMANENT ACCESS | | |
|  | PIPELINE CORRIDOR | | |



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PREPARED FOR:



PAGE:

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