

EASEMENT, RIGHT-OF-WAY, AND SURFACE DAMAGE AGREEMENT

This Easement, Right-of-Way and Surface Damage Agreement ("Agreement") is made and entered into this August 29, 2016 ("Effective Date") by and between **Glenn E. McGirr and Lauralie Taubenheim** (collectively "Owner"), whose address is **7763 E. County Road 16, Johnston, CO 80534** and **Extraction Oil & Gas, LLC ("Operator")**, with offices at **370 17th Street, Suite 5300, Denver, CO 80202** sometimes referred to each as a "Party," or collectively as the "Parties."

WITNESSETH:

For and in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **OWNERSHIP.** Owner is the surface owner of certain lands located in Larimer County, Colorado as more specifically described as follows ("Lands"):

Township 5 North, Range 68 West of the 6th P.M.

Section 26: That portion of the Southeast $\frac{1}{4}$ being more particularly described in Warranty Deed recorded July 8, 1993 at Reception Number 93046375 of the records of Larimer County, Colorado.
See attached "Exhibit A".

Operator, and/or its affiliates, owns a working or other interest in oil and gas leases covering all or portions of the Lands or lands pooled or included in a spacing unit therewith or lands adjacent thereto (each a "Lease," collectively, the "Leases").

2. **OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.**

A. Operator desires to drill (or cause to be drilled), complete, operate and maintain oil and/or gas wells (the "Wells") on the Lands and/or the Leases covering the Lands the subsurface locations of which may be under lands other than the Lands. In order for Operator to explore, develop, drill, construct, complete, produce, maintain, rework, and operate the Wells and all facilities associated therewith including, but not limited to, a permanent access roads ("Access Road"), pipelines, production facilities including emission control devices, vapor recovery towers, vapor recovery units, flowlines, gathering lines, temporary above ground water lines, temporary above ground completion fluid pipelines, separators, tank batteries, electrical lines and any other facilities or property necessary for Operator to conduct operations on the Wells (each a "Facility," collectively, the "Facilities"), it is necessary that Operator enter and utilize a portion of the Lands known as the Oil and Gas Operations Area ("OGOA").

B. Oil and Gas Operations Area. Operator is hereby granted and exclusive permanent easement, during the term of this Agreement, to drill wells on the property, including horizontal and directional wells that produce from and drain all or portions of the property or any adjacent properties pooled with the oil and gas minerals pooled on the property, provided that such locations must be permitted locations under the then applicable well spacing regulations of the Colorado Oil and Gas Conservation Commission ("COGCC") and production facilities on the area depicted on Exhibit "A". The portion of the lands utilized for construction are labelled as "Temporary OGOA". Operator shall restore the Owner's lands after completion of the wells and such exclusive easement area shall be the "Permanent OGOA" comprised of approximately 4 or 5 acres.

C. Flowlines, Gathering Lines and Other Pipelines. Operator has a right to install, own, operate, maintain, repair and replace all flowlines, gathering lines and other pipelines ("Pipeline Area") that may be necessary or convenient to its Operations on the Lands, depicted as "Pipeline Area" on Exhibit A. Owner further agrees to execute a recordable Pipeline Right-of-Way Grant for all pipelines constructed in the Pipeline Area with Operator, its affiliates and its third party gatherers. It is Operator's intent to confine the location of such Pipeline Area to what is set forth in Exhibit A.

D. TERM OF AGREEMENT. Each of the Parties covenants and agrees that it shall strictly observe the terms and conditions regarding surface occupancy set forth in this Agreement. This Agreement, and the rights and benefits granted and created herein shall be effective as of the Effective Date and shall continue in full force and effect until the later to occur of (i) permanent cessation of Operations being conducted on the Lands, or (ii) the date that is five (5) years from the Effective Date (the "Term"), and in either event, Operator has plugged and abandoned all wells owned or operated by Operator and has complied with all requirements of all applicable oil and gas leases and applicable

laws, rules and regulations pertaining to removal of equipment, reclamation, and clean-up. For the avoidance of doubt, this Agreement shall terminate five (5) years from the Effective Date if Operator has not commenced Operations on the Lands within such five (5) year Term.

E. **IRRIGATION SYSTEM.** No well or tank or any related facilities will be located where it will interfere with any existing irrigation system for the Lands or adjacent properties. If at any time Owner or adjacent landowners who share the irrigation system are prevented from planting, cultivating, irrigating or harvesting any agricultural crop on any of Owner's Lands (including adjacent areas) directly as a result of Operator's operation, Operator shall be responsible for all crop damage. If as a result of Grantee's operations, such crop can only be planted, cultivated, irrigated or harvested but only at a cost in excess of the normal cost in the absence of such operations, Operator shall be responsible for such excess, provide such excess chargeable to Operator may not exceed the gross matured value of the crop.

3. **SURFACE EASEMENT AND RIGHT-OF-WAY; SUBSURFACE EASEMENT.**

A. Owner acknowledges and understands that Operator, as owner or lessee of the oil and gas estate for the Lands, owns an easement and right-of-way that burdens the Lands. Operator, its successors and assigns, and each of their agents, employees, contractors and subcontractors, may exercise the right, privilege and easement for the purpose of drilling, completing, operating and maintaining Wells, constructing, using and maintaining Access Roads and locating, constructing, entrenching, operating, maintaining, repairing, altering, replacing and removing the Facilities and all necessary appurtenant facilities, for the purposes specified in this Agreement, and including the rights of ingress to and egress from the Facilities across the Lands.

4. **LOCATION.** The locations of Wells, the Access Roads to the Well sites and Facilities to be constructed on the Lands have been discussed by and between Owner and Operator. Material changes to the designated operating areas may be made by Operator with the consent of Owner, which shall not be unreasonably withheld, but will not unduly interfere with Owner's existing use of the Lands. It is also understood and agreed that additional Access Roads and Facilities located outside of the Permanent OGOA may be necessary for Operator's activities and in these circumstances Owner and Operator agree to designate a mutually agreeable location for said Access Roads and Facilities, with additional compensation paid to the Owner. Operator agrees not to use any more of the surface of the Lands than is has been designated as OGOA. This Agreement does not in any way limit the rights of Operator to drill future additional Wells with associated Facilities and Access Roads on the Lands or to exercise all rights consistent with its mineral ownership or lease rights, with a separate surface use agreement with Owner.

5. **CONDUCT OF OPERATIONS.** Operator's operations on the Lands will be conducted pursuant to the terms of the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("COGCC"), applicable Colorado statutes and case law, municipal and county law and any applicable federal statutes and case law, provided that this Agreement does not create in Owner a private right to enforce the rules and regulations of the COGCC. However, Owner may file any permissible action or complaint to inform the COGCC of a violation of the COGCC rules or regulations.

7. **ADDITIONAL SURFACE USE PROVISIONS, ACCESS ROADS, FENCES AND FACILITIES.** With respect to its operations on the Lands, Operator will comply with the following provisions:

A. **Access Roads:** Operator will maintain all Access Roads in good repair and condition, and pay to Owner an amount set forth in the letter agreement dated August 29, 2016

B. **Surface Restoration:**

Upon permanent cessation of Operator's operations on the Lands, all areas thereof occupied or utilized by Operator will be restored by Operator to their original contour as nearly as is reasonably practicable, including re-seeding the Lands to restore the pasture grass that existed prior to the construction.

a. Other:

i. Operator will install culverts on the Lands that may be necessary to maintain present drainage and irrigation otherwise affected by its operations on the Lands.

ii. If by reason of the negligence of the Operator in the conduct of its operations pursuant to this Agreement and/or the Leases, there is damage to personal property of the Owner, including, but not limited to, irrigation wells, fences, culverts, bridges, pipelines, ditches, or irrigation systems, horses, livestock and for which Owner has not been previously compensated pursuant to Paragraph 6, Operator will repair or replace such items after consultation with and to the reasonable satisfaction of the Owner. Owner will notify Operator of any items damaged after the Wells have been drilled and completed and Operator will repair or replace such items after consultation with the Owner within 15 days of occurrence, unless otherwise agreed to by the Owner and Operator.

iii. Operator agrees that all trash, refuse pipe, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for continued operations of the Wells will be removed and disposed away from the Lands no later than 30 days after the completion of the Wells. No such items will be burned or buried on the Lands.

iv. During drilling operations the well sites and any pits shall be fenced. After completion of the Wells and in the event of production, all production tanks shall be bermed. Additionally, the well sites shall be kept free and clear of all noxious weeds, unsightly growth and trash either during drilling operations or after completion and production.

v. All guy line anchors for drilling and completion rigs shall be immediately removed after such work is completed.

vi. Operator agrees to fence off the perimeter of the well sites with temporary fencing if reasonably requested by Owner. Operator will also install cattle guards and/or gates where reasonably necessary.

vii. Operator recognizes that the OGOA may be subject to water from the existing irrigation system and agrees to take precautions in constructing the pads to allow for water runoff.

(vii) Operator shall use the Property only for Operations and the placements of wellheads, separators, dehydrators, compressors, normal well site storage tanks, temporary or permanent structures, , and storage purposes, equipment and related facilities. Operator shall not store any item unrelated to operations without the prior written consent of Owner.

C. Operator shall consult with Owner concerning mitigating the visual impacts of the Operator's facilities. Operator shall at Owner's sole discretion, install landscaping and other improvements outside the Permanent OGOA for the purpose of buffering or isolating the Permanent OGOA from remainder of Owner's adjacent lands. Operator shall be responsible for the costs of the landscaping and Owner shall be responsible for the maintenance of all landscaping installed pursuant to this Section.

D. **DEFAULT AND RIGHT TO CURE.** In the event of alleged default by Operator in the payment of any of the sums hereinabove provided to be made, in obligations to be performed, or any other terms, conditions or covenants of this Agreement, Owner will notify Operator, by certified mail, return receipt requested, of the alleged default. Operator will have 20 days from receipt of the written notification in which to dispute or otherwise respond to the notification before Owner may allege default. If Operator remedies the alleged default within 20 days of Owner's notice, or if the alleged default is of a nature that cannot be remedied within 20 days, then if Operator commences the remedy of the alleged default within that 20 day period and diligently pursues such remedy, then no default shall be deemed to have occurred so long as the default is remedied within a reasonable period of time.

Except as otherwise agreed in writing, no waiver by Owner of any breach by the Operator of any of its obligations, agreements, or covenants hereunder will be deemed to be a waiver of any subsequent or

continuing breach of the same, nor will any forbearance by Owner to seek a remedy for any breach by the Operator be deemed to be a waiver by Owner of its rights or remedies with respect to such breach.

It is agreed Owner's exclusive remedy for a breach or default by Operator of the terms of this Agreement is an action for compensatory damages and that Operator shall be liable to Owner for compensatory damages for any such breach or default. The compensatory damages shall in an amount that has been agreed by the Parties or as established by a final judgment of a court with jurisdiction over any claimed breach or default.

INDEMNITY/RELEASE. Owner hereby releases and agrees to hold harmless Operator from any and all liability and further payment, other than what has been provided in this Agreement, for damages on the Lands which arise from, out of or in connection with the Operator's operations on the Lands, but only as to those operations which are described in and permitted by this Agreement, and for those operations which the Amount has been paid and received by Owner pursuant to this Agreement.

Operator hereby releases and agrees to hold harmless Owner from any and all liability for the consequences of Owner's non-negligent operations on the Lands. Operator shall protect, indemnify, and hold harmless Owner, and any subsequent owner of the Lands from any Environmental Claims relating to the Lands or oil and gas leasehold thereunder that arise solely out Operations located on the Lands.

Operator agrees to indemnify and hold Owner harmless from any and all claims, damages and causes of action arising out of and caused by Operator's operations on the Lands that may be asserted by any of Operator's agents, employees, subcontractors, contractors or persons entering upon the Lands at the request of Operator; with the exception of any claims, damages, and causes of action that arise from Owner's negligence or misconduct.

The Operator shall, and hereby expressly agrees to defend, indemnify and hold harmless Owner, , its successors, assigns, employees and agents, guests and invitees from and against any and all loss, damage, injury, discharge or release of foreign substances, expense, liens, claims, demands, liability and causes of action of every kind and character (including those of the parties, their agents, and employees, and including those for death, personal injury, property damage, loss of property value, or other liability, damage, fine or penalty), environmental claims together with costs, attorney's fees, and settlements, arising out of or in connection with the operations of the Operator on the Lands pursuant to this Agreement or by any act of omission of The Operator or any of its subcontractors, agents, employees, invitees, or licensees. Any damage or injury or death to horses or livestock caused by the Operator or its, agents, employees, or subcontractors shall be paid to Owner based on fair market value within 30 days after notice of the injury or death. This provision shall survive termination of this Agreement.

E. WAIVER OF COGCC NOTICES AND OTHER REGULATORY MATTERS. Owner hereby waives the following notices and consultations and shall not object or protest any Application for Permit to Drill (Form 2) and Oil and Gas Location Assessment (Form 2A) filed by Operator with the COGCC:

- a. Rule 305.a.: Notice of Intent to Conduct Oil and Gas Operations;
- b. Rule 305.c.(1): Oil and Gas Location Assessment Notice;
- c. Rule 305.c.(2): Buffer Zone Notice;
- d. Rule 305.f.: Statutory Notice to Surface Owners;
- e. Rule 306.a.: Surface Owner Consultation and Meeting Procedures; and
- f. Any other notice or consultation requirements of the COGCC.

Notwithstanding the foregoing, Operator agrees it will provide an initial notice to Owner after it has submitted a request for an Application for Permit to Drill (Form 2) to the COGCC.

F. Operator will incorporate the applicable provisions of this Agreement into the applicable Form 2A.

G. Owner agrees not to object to the Form 2A, so long as it is consistent with this Agreement, and if consistent with this Agreement, Owner hereby waives any right granted by COGCC rule to comment on the Form 2A (other than to support it), to request an extension of the comment

period, to request an onsite inspection pursuant to COGCC policy, and to appeal the approval and issuance of the Form 2A, and any related Form 2 (“Application for Permit to Drill”).

H. Owner shall not oppose Operator in any COGCC or other governmental proceedings related to Operator’s operations, including, but not limited to, permitting, formation of drilling units, well spacing, well density, pooling, drilling, completion, stimulation, re-stimulation, workovers, deepening and recompleting, provided that Operator’s position and contemplated undertakings in such proceedings are consistent with this Agreement. Owner will provide Operator or its successors and assigns with any and all written support they may reasonably require to obtain permits from the COGCC, other state agency, or any local jurisdiction, at Operator’s sole cost and expense.

I. Owner grants consent to locate the Wells greater than 50 feet from an existing well pursuant to COGCC Rule 318A(c). Owner grants consent to locate Wells outside of the GWA windows as defined in COGCC Rule 318A (a).

J. 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, occupied buildings, and surface property lines, among other things. In order to give full effect to the purposes of this Agreement, Owner hereby waives its right to object to the location of any Well, Access Roads and Facilities on the basis of setback requirements in the rules and regulations of the COGCC, including, but not limited to, the 150 foot setback from surface property lines and other requirements of rules 603.a.(2), and 604.a, except that the Parties intend to rely upon one or more exceptions of rule 604.b of the rules and regulations of the COGCC relating to property lines and urban mitigation areas and/or designated outside activity areas, as those terms may change or be defined and amended from time to time. For the operations contemplated by this Agreement, Owner hereby waives the Exception Zone, Buffer Zone, Urban Mitigation Area, and High Occupancy Building setback distances, as required by COGCC rules and regulations.

K. Owner understands that Operator may provide a copy of this Agreement to the COGCC in order to obtain a waiver, exception location, or variance from the COGCC rules or from a local jurisdiction. Owner also agrees that it will not object in any forum to the use by Operator of the Lands consistent with this Agreement and that it will also provide Operator with whatever written support it may reasonably require to obtain permits from the COGCC or any local jurisdiction.

8. **NOTICES.** Notice by either Party will be promptly given, orally if possible (with the exception of the default notice described in Paragraph 8), with subsequent written confirmation (optional) sent by United States mail, postage prepaid and addressed to either Party at the address as designated below; or to such other place as either Party may from time to time designate by notice to the other (Owner agrees to notify any surface tenant that may be affected by Operator’s operations on the Lands and Owner may allocate the payments made hereunder with such surface tenant as they shall mutually determine between themselves and Operator shall have no liability therefore):

Owner	Operator
Glenn E. McGirr	Extraction Oil & Gas, LLC
7763 E. County Road 16	370 17th Street, Suite 5300
Johnston, CO 80534	Denver, CO 80202
Phone: (970) 214-0184	Phone: (720) 974-2021
	Attn: Jamison McIlvain

9. **BINDING EFFECT.** The covenants and conditions herein contained and all of the provisions of this Agreement will inure to the benefit of and will be binding upon the Parties hereto, their respective heirs, representatives, successors or assigns. Owner agrees to contact any and all tenants of Lands or any other third parties utilizing the surface of the Lands that may be affected by Operator’s activities on the Lands. It will be Owner’s sole responsibility to advise such third parties of the existence of this Agreement and Operator’s right to utilize the surface of the Lands pursuant to this Agreement for the payment of any consideration, if any, due such third party from Owner.

10. **RECORDING.** The Parties agree Operator may record this Agreement in the real estate records of Larimer County, Colorado.

11. **ENTIRE AGREEMENT.** Except for that certain letter agreement of even date between Owner and Operator and the Leases, this Agreement contains the entire agreement between the Parties and may not be modified orally or in any other manner other than by agreement in writing signed by all Parties or their respective successors or assigns.

12. **REASONABLE ACCOMMODATION.** Owner acknowledges the use of the Lands by Operator as herein described is in full satisfaction of the requirement that Operator conduct its oil and gas operations in a manner that accommodates Owner. Owner further acknowledges Operator's use of the Lands as provided herein constitutes "reasonable accommodation" by Operator, its successors, and assigns as provided in Colorado Revised Statute 34-60-127.

13. **TERMINATION.** Except as provided in Paragraph 2 D, this Agreement will terminate concurrently with the Leases as they relate to Operator's and/or its affiliates rights to explore, drill, and produce oil, natural gas, and associated hydrocarbons from the Lands or lands pooled or unitized therewith or as otherwise provided herein. To the extent a moratorium or a restrictive governmental law or regulation prevents a Party from performing operations, this Agreement shall be extended for such period of time that the moratorium or restrictive governmental law or regulation is in place. Notwithstanding the termination of this Agreement, Operator may access the Lands to plug and abandon the Wells and to reclaim the Lands as provided in this Agreement and the Leases and for such other purposes as necessary to comply with the rules and regulations to Operator's operations.

14. **COUNTERPARTS.** This Agreement may be executed by facsimile or electronic mail, in counterparts, each of which will be considered an original and enforceable against either Party.

15. **GOVERNING LAW AND VENUE.** This Agreement will be governed by, construed and enforced in accordance with the laws of Colorado. Venue shall be deemed to be in Larimer County, Colorado.

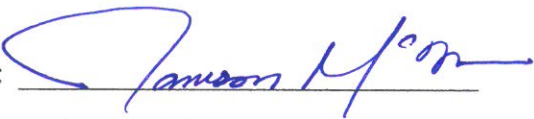
16. **AUTHORITY OF SIGNATORIES.** The signatories below declare, warrant and represent that they have the authority to enter into this Agreement on behalf of their respective principals, if any.

17. **SUCCESSORS.** This Agreement constitutes an easement, right-of-way, and covenant running with the Lands and will be binding upon and inure to the benefit of, and be enforceable by, the Parties and their respective successors, affiliates, administrators, trustees, executors and assigns.

IN WITNESS WHEREOF, the Parties have set their hands, the day and year first written above.

Operator:

Extraction Oil & Gas, LLC

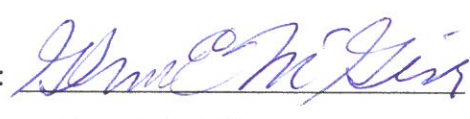
By: 

Name: Jamison McIlvain

Title: ~~Landman~~ AGENT
JDM

Owner:


Glenn E. McGirr

By: 

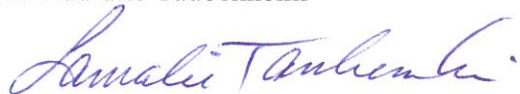
Name: Glenn E. McGirr

Owner:

Lauralie Taubenheim

By: 

Name: Lauralie Taubenheim



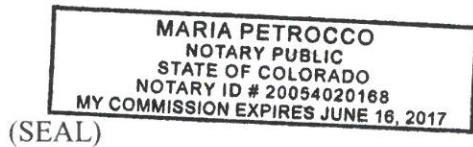
ACKNOWLEDGMENTS

STATE OF Colorado)
)ss.
COUNTY OF Larimer)

The foregoing instrument was acknowledged before me on this 12th day of September, 2016, by Glenn E. McGirr and Lauralie Taubenheim.

Witness my hand and official seal.

My commission expires: 6-16-2017



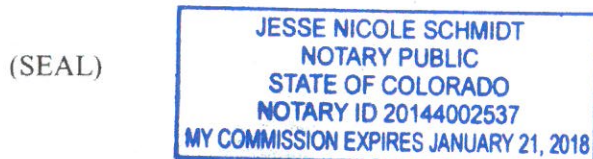
Maria Petrocco
Notary Public

STATE OF COLORADO)
)ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me on this 21st day of September, 2016, by Jamison McIlvain on behalf of Extraction Oil and Gas, LLC.

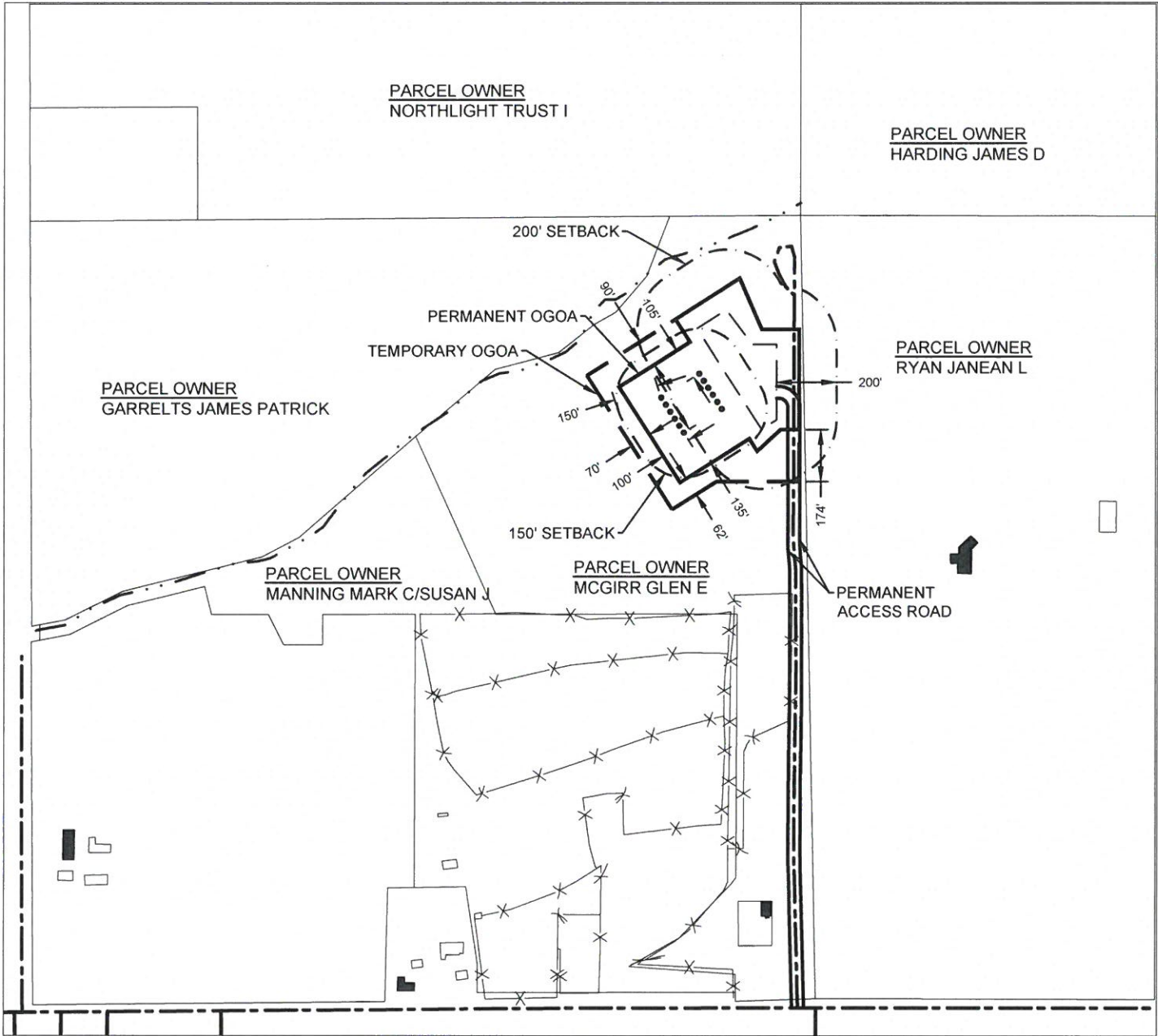
Witness my hand and official seal.

My commission expires: 1/21/2018



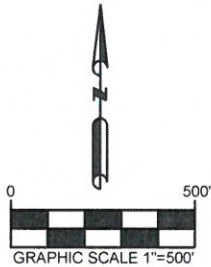
Jesse Schmidt
Notary Public

McGIRR 26-L PAD
EXTRACTION OIL & GAS
EXHIBIT A



LEGEND

- = PROPOSED WELL
- = PERMANENT WELL AND FACILITY OGOA
- - - = TEMPORARY WELL OGOA
- X X = FENCE
- - - = ROAD
- . - . = EXISTING IRRIGATION DITCH
- = LOT LINES
- = BUILDING UNIT
- = BUILDING
- - - = SETBACKS
- = FACILITY PAD



PREPARED BY:



FIELD DATE:
10-15-15

DRAWING DATE:
09-26-16

BY:
CSG

CHECKED BY:
MLP

SITE NAME:

McGIRR 26-L PAD

SURFACE LOCATION:

That portion of the SE $\frac{1}{4}$ being more particularly described in
WD recorded July 8, 1993 at Rec. No. 93046375 of the
records of Larimer County, CO, Sec. 26, T5N, R68W, 6th P.M.

PREPARED FOR:

