

**SURFACE USE AGREEMENT**  
**CB-5 Well**

This Surface Use Agreement (“SUA”) is effective the 10 day of May, 2017 (“**Effective Date**”), between Brad E. White and Pamela K. White, whose address is 9136 Road BB, Pleasant View, CO 81331 and Michael K. Olander and Lori K. Olander, whose address is 14033 Road CC, Pleasant View, CO 81331 (“**Landowner**”), and Kinder Morgan CO<sub>2</sub> Company, L.P., a Texas limited partnership (“**KM**”), with an office at 500 Dallas Street, Suite 1000, Houston, TX 77002.

Landowner owns the surface estate in a tract of land in Montezuma County, Colorado, more particularly described as follows:

Township 38 North, Range 19 West, N.M.P.M.  
Section 14: Lots 8, 12  
(the “**Property**”)

KM is the owner of certain rights in one or more oil and gas leases underlying the Property or in oil and gas leases unitized therewith. KM is the operator of the McElmo Dome Deep Unit (“**Unit**”). The Property is located wholly or partially within the Unit boundaries and KM has plans to drill a well, the CB-5 (“**Well**”), from a surface location on the Property and within the Unit.

KM has the right, privilege, and easement to construct, use, create, relocate, or modify a road or roads, and the right, privilege, and easement to construct, operate, maintain, protect, inspect, test repair, alter, replace, move, remove, change the size of and abandon in place a pipeline or pipelines and flow lines, and the right, privilege, and easement to install communication lines and electricity lines and related apparatus, and the right, privilege, and easement to drill, test, complete, re-complete, rework, re-enter, pump, operate, construct and maintain one (1) well, (1) well location, production facilities, pipelines and flow lines associated therewith.

Landowner and KM have engaged in a discussion of certain aspects of KM’s plan for the drilling, completion and operation of the Well on the Property, and the Parties now desire to enter into this Agreement principally in order to confirm KM’s rights and to clarify KM’s plans.

In consideration of the promise by KM to pay a certain sum of money to Landowner (the amount of which is set forth in a Damage Report and Settlement) to be paid at the time of commencement of construction by KM in connection with the Well, related roads, pipelines, flow lines, facilities and infrastructure and in consideration of the covenants contained in this SUA, the Parties agree as follows:

**A. Matters Pertaining to Landowner:**

1. Damage Compensation. Landowner agrees that the recited consideration constitutes full payment for all surface damages that normally occur to the Property as a result of KM’s reasonable operations.
2. Interim and Final Reclamation. KM shall comply with the Colorado Oil and Gas Conservation Commission (“COGCC”) Rules and Regulations (“Rules”) 1003 and 1004.
3. Landowner Use of Drillsite. KM will have exclusive and full use of the Drillsite at all times, as defined below and described in Exhibit “A”. Landowner shall not use the Drillsite for storage, access or any other purpose.
4. Landowner Use of Corridor. KM will have full use of the corridor described in Exhibit “A” at all times, together with reasonable access to, over the Property to and from

said corridor and along and upon the same. Landowner may use said corridor at all times to cultivate, use and occupy the corridor for any purpose consistent with this agreement and which will not interfere with or endanger the Well and related roads, pipelines, flow lines, facilities and infrastructure or the use thereof. Landowner furthermore agrees not to construct or place any roadways, buildings, structures or other improvements, ponds, or plant any trees or shrubs upon or under the lands covered by the corridor or unreasonably restrict KM's access to, from, or along and upon the corridor. KM shall pay Landowner for damages to land, growing crops, livestock, and other improvements on the Property occasioned by KM's installation and construction of its roads, pipelines, flow lines, facilities and infrastructure or by any other activities of KM associated with its reasonable use of the Property under this agreement.

5. Cuttings, Storage Areas and Pits. The requirements of COGCC Rules 902, 904 and 905, as amended from time to time, shall be followed by KM.
6. Permission to Raise, Move and Install Utility Lines. Landowner hereby grants permission for the local electricity provider to raise, move and install utility lines on the Property when requested by KM in connection with the Well. Landowner agrees to execute utility easements with the electricity provider as necessary to comply with this Article A.6.
7. Landowner Use of Property. Landowner expressly acknowledges that the terms of this SUA shall be deemed to fully satisfy any obligation of KM to accommodate, whether under statute or common law, Landowner's use of the surface of the Property, existing or future.

**B. Matters Pertaining to KM:**

1. Drillsite. KM will use only as much of the surface of the Property as is reasonably necessary for the on-going operation of the Well and associated facilities. KM estimates that the surface area that will actually be used on an on-going basis for the drill site of the Well ("Drillsite") will be approximately 6.08 acres. This acreage estimate does not include areas temporarily disturbed during construction, repair, work over and other similar activities.
2. Excess Material. KM may store material (e.g., soil and gravel) excavated from the Property on the Drillsite to be used for construction and/or reclamation of the Drillsite. KM also may import material from off of the Property for construction and reclamation of the Drillsite. After constructing the Drillsite, should KM determine that there is material in excess of what is required for reclamation and which can reasonably be stored on the Drillsite, then KM may deliver said excess material to a location on the Property that is mutually acceptable to KM and Landowner. Any such excess material so delivered shall become the sole responsibility of Landowner, and KM shall have no further responsibility for said excess material. Should a mutually acceptable location on the Property not be found, then KM may remove such excess material from the Property; provided that KM shall make a reasonable attempt to minimize the amount of excess material that it removes from the Property.
3. Maintenance and Repair of Access Roads. KM will reasonably maintain any existing roads that are used by KM on the Property to at least their pre-existing condition. KM will maintain any new roads that may be constructed by KM on the Property to KM's standards. KM will make all necessary repairs to the roads caused by KM's use. However, KM will not be required to snow plow or otherwise clear any road of snow.

4. Burial of Pipelines. KM will, to the extent reasonably practicable, bury all water, oil and gas pipelines to a minimum depth of 36 inches below the surface at the time of installation, unless subsurface conditions such as rock prohibit the installation of the line to that depth at a reasonable cost.
5. Indemnification. KM agrees to indemnify, defend and hold Landowner harmless from and against any and all expenses, losses or damages resulting from or relating to KM's operation and maintenance of the Well, facilities, access roads, pipelines and flow lines; provided, however, KM will not indemnify, defend and hold Landowner harmless from such expenses, losses or damages to the extent resulting from or relating to, in whole or in part, the negligence or willful misconduct of Landowner or Landowner's employees, contractors, guests or invitees.
6. Compliance with the Law. KM will comply with all applicable laws, rules and regulations.
7. Temporary Parking. Landowner agrees that during times of construction or other significant work, KM may park vehicles in areas near the work site or along roads.
8. Subsequent Damages. To the extent not covered in the damages component found in the above mentioned Damage Report and Settlement, KM will promptly repair or compensate Landowner for any other miscellaneous damages to the Property at the time those damages are sustained and to the extent those damages are caused by KM's construction activities or any subsequent activities, those damages including but not limited to future crop loss, livestock, domestic water lines, gas lines, utility lines, irrigation lines, roads and use of temporary work space.

**C. General Provisions:**

1. Term. This SUA is effective as of the Effective Date and will continue until (i) all oil and gas leases underlying the Unit expire, (ii) production from the Well and any additional wells producing from the Unit have permanently ceased and are permanently plugged and abandoned, (iii) any compressor on the Property is no longer being used and (iv) any Salt Water Disposal well in the Unit has ceased being used and is plugged and abandoned. After expiration, KM will have a reasonable period of time within which to remove such Well equipment and facilities from the Property as it deems appropriate or as required by applicable rules, regulations or laws.
2. No Waiver of Other Rights. With the exception of those duties and obligations that each Party has specifically agreed to assume and perform in this SUA, those duties and obligations which have been confirmed or clarified in this SUA and the rights specifically granted to, waived or relinquished by a Party in this SUA, this SUA will not be construed to waive or relinquish any Party's legal rights in, to or under the Property, including but not limited to rights of ingress or egress, access or other reasonable surface use, now owned or hereafter acquired by a Party under any oil and gas lease or other agreement or instrument pertaining to the Property. Nor does this SUA, subject to the foregoing exceptions, waive the rights of either Party under any applicable laws, rules or regulations pertaining to the Property.
3. Successors and Assigns. This SUA will be binding upon and inure to the benefit of the Parties and their respective heirs, successors and assigns. In addition, KM and its

successor Well Operator may assign this SUA to successive Operators of the Well. Assignment of this SUA by either Party will act to terminate the assigning Party's duties, obligations and liabilities under this SUA from and after the date that the non-assigning Party receives a true copy of the assignment, with the exception of any indemnity or monetary obligations accruing prior to such date.

4. Applicable Law. This SUA will be interpreted under the laws of the state of Colorado.
5. Entire Agreement. This SUA contains the final agreement, clarifications and confirmations of the Parties as to the matters addressed, and supersedes any and all prior oral or written negotiations, understandings and agreements regarding the Well and its related facilities, roads, pipelines and flow lines. This SUA may not be modified unless the modification is in writing and is signed by Landowner and an authorized representative of KM.
6. Further Assurance. The Parties agree, at any time and from time to time, upon the reasonable request of either Party and without additional consideration, to take or do all such further acts and things, and furnish and deliver all such further documentation and material (including any document or instrument requested by local, state or federal authorities) which, in the opinion of the requesting Party, may be necessary or useful in carrying out the purposes of this SUA.
7. Regulatory Conditions. If KM is required by any regulatory agency as a condition of approval to either change the location of the well to be drilled or the configuration of the Drillsite, KM reserves the right to unilaterally amend the SUA to conform to the new location(s) and/or configuration(s) as approved by the regulatory agency.
8. Counterparts. This SUA may be executed in two or more original counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

This SUA is executed by the Parties on the dates appearing in the acknowledgements below, but this SUA effective as of the Effective Date.

**Landowners**

**KINDER MORGAN CO<sub>2</sub> COMPANY, L.P.**

By: Brad E. White  
Brad E. White

By: \_\_\_\_\_  
Dayton Robertson,  
Vice President – Project Management

By: Pamela K. White  
Pamela K. White

By: Michael K. Orlander  
Michael K. Orlander  
Orlander

By: Lori K. Orlander  
Lori K. Orlander  
Orlander

{notary page follows}

STATE OF COLORADO )  
 ) ss  
COUNTY OF MONTEZUMA )

SUBSCRIBED AND SWORN TO before me this 10 day of May, 2017, by Brad E. White and Pamela K. White.

My commission expires: 2-22-2021

ANDREW C WEYGANT  
Notary Public  
State of Colorado  
Notary ID # 20174008066  
My Commission Expires 02-22-2021

  
Notary Public

STATE OF COLORADO )  
 ) ss  
COUNTY OF MONTEZUMA )

SUBSCRIBED AND SWORN TO before me this 10 day of May, 2017, by Michael K. Olander and Lori K. Olander.

My commission expires: 2-22-2021

ANDREW C WEYGANT  
Notary Public  
State of Colorado  
Notary ID # 20174008066  
My Commission Expires 02-22-2021

  
Notary Public

STATE OF TEXAS )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by Dayton Robertson, as Vice President-Project Management for Kinder Morgan CO<sub>2</sub> Company, L.P., a Texas limited partnership.

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

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