

## **SURFACE USE AGREEMENT**

This Surface Use Agreement (“Agreement”) is made and entered into May 1, 2018 (“Effective Date”) by and between James M. Warner (“Owner”), whose address is 6239 County Road 36, Platteville CO, 80651 and Magpie Operating, Inc. (“Company”), with offices at 2707 County Road 11, Loveland Colorado 80538. Owner and Company are sometimes referred individually as a “Party” or collectively as the “Parties.”

### RECITALS:

A. Owner is the surface owner of certain lands located in Larimer County, Colorado as more specifically described on Exhibit A attached hereto (“Lands”).

B. Company, and its affiliates, own interests in certain oil and gas leases and surface leases covering all or portions of the Lands (collectively, the “Leases”).

C. Company wishes to use a portion of the Lands for oil and gas operations and other surface activities related thereto.

### AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements of the Parties herein contained, and other good and valuable consideration, the Parties agree as follows:

1. Grant of Access. Owner hereby grants Company the right of ingress and egress to, over, upon, through, across and under the Lands, and all rights related to access and use of the Lands as are necessary to explore, develop, produce and market oil, gas and associated hydrocarbons underlying the Lands , including, but not limited to, the right to: (a) locate, drill, complete, operate, and maintain Wells (defined in Section 2.4 below) and associated Well Pads (defined in Section 2 below) on the Lands; (b) construct and operate access roads, Pipelines (defined in Section 4 below), and utility lines to the Well Pads; (c) construct and operate equipment and facilities related to the operation of the Wells; and (d) re-inject fluid and/or gas in connection with exploration and production of oil, gas and associated hydrocarbons underlying the Lands.

2. Wells and Well Pads. Company may construct well pads for drilling, completing, re-completing, reworking, re-entering, producing, maintaining, and operating Wells (“Well Pads”) on the Lands subject to the following terms and conditions:

2.1. Vertical Well Pads. All Well Pads for vertical Wells shall be limited to approximately five (5) acres of land while drilling and no more than two (2) acres for permanent facilities.

2.2. Directional Well Pads. All Well Pads constructed for Directional Wells shall be limited to approximately ten (10) acres of land while drilling and no more than five (5) acres for permanent facilities. “Directional Well” means any Well that is directionally drilled with a horizontal wellbore length of at least one thousand (1,000) feet.

2.3. Well. As used in this Agreement, “Well” means a well and the accompanying wellbore (either vertically or directionally drilled from the applicable Well Pad)

for the production of oil, gas, associated hydrocarbons, and other leased substances and all associated casing and wellhead equipment.

3. Roads. All roads constructed on the Lands shall be approximately twenty (20) feet in width, being ten (10) feet on each side of the center line of the road.

3.1. Use of Existing Roads. Company shall endeavor to use existing roads for its operations on the Lands. If Company determines that construction of a new road is required, Company shall use reasonable efforts to minimize surface damage to the Lands during construction of the road.

3.2. Road Maintenance. Roads used by Company shall at all times be properly graded and maintained during the Term (defined in Section 5) of this Agreement.

3.3. Speed Limit. Company shall abide by a fifteen (15) mile per hour speed limit when using roads located on the Lands.

4. Pipelines. All Pipelines constructed on the Lands shall be buried to a depth of at least forty-eight (48) inches. Following construction, Company shall provide Owner an as-built diagram for each Pipeline. The term "Pipeline" includes all pipelines used for: (1) the removal of oil, gas, petroleum products, water, and any other substances recovered during Company's operations on the Lands, and (2) the movement of water for oil and gas operations on the Lands. During the Term of this Agreement, Company shall provide for the maintenance and repair of all such Pipelines.

5. Term. This Agreement shall terminate upon the later of (i) the expiration of the Leases, or (ii) the date that is three (3) years from the Effective Date ("Term"). Company shall have access to the Lands for a period ending six (6) months after the Term to complete all required plugging and reclamation operations. In the event of adverse surface conditions, Company will have access to the Lands for so long as is reasonably necessary to perform all plugging and reclamation operations.

6. General Operational Requirements.

6.1. Operations. Company's operations on the Lands will be conducted pursuant to the terms of the Leases, this Agreement, and the Rules of the Colorado Oil and Gas Conservation Commission ("COGCC"). Company shall diligently and reasonably conduct its operations, and shall: (a) keep those portions of the Lands used by the Company free from litter, debris, junk and refuse; (b) keep those portions of the Lands used by the Company free of noxious weeds; (c) employ appropriate measures to prevent wind erosion, dust, and loss of soil on those portions of the Lands used by the Company; and (d) minimize noise and light from Company's operations on the Lands.

6.2. Water Flow. Company will install culverts as necessary to maintain present drainage on the Lands.

6.3. Fences. During drilling operations, Company shall fence Well Pads and pits located on the Lands. Company will install cattle guards and/or gates where reasonably necessary.

6.4. Guy Line Anchors. All guy line anchors for drilling and completion rigs shall be promptly marked or removed after drilling operations are completed.

6.5. Prohibited Items. None of Company's employees, agents or contractors shall be permitted to carry firearms or other weapons while on the Lands. Company shall notify all of its employees, agents and contractors entering the Lands on Company's behalf that no firearms or other weapons will be allowed on the Lands.

6.6. Irrigation Systems. No Wells, Well Pads, tanks or related facilities, Pipelines, roads or other operations conducted under the terms of this Agreement will interfere with Owner's use of any existing irrigation system located on the Lands as of the Effective Date ("Irrigation Systems"). If Owner is prevented from utilizing Irrigation Systems as result of Company's use of the Lands, Company shall compensate Owner for crops lost (including crops lost on adjacent parcels owned by Owner) as a result of Owner's loss of use of the Irrigation Systems.

7. Reclamation. Within six (6) months after the termination of this Agreement (or as soon as is commercially reasonable in the event of adverse surface conditions), Company will reclaim the Lands in accordance with COGCC Rules.

8. Owner's Water. Company shall not use any water from Owner's existing water wells or reservoirs on the Lands without Owner's prior written consent. Company shall not disturb or interfere with any source of water on the Lands without Owner's prior written consent.

9. Wavier of Notice and Consultation; Notice. Owner waives the right to receive all landowner notices set forth in COGCC Rules, including, but not limited to, COGCC Rules 305.a, 305.c, 305.f. Owner further waives the right to consultation set forth in COGCC Rule 306.a. Owner acknowledges and agrees that Company has complied with all notice and consultation requirements of COGCC Rules 305 and 306. Any notice required by this Agreement will be given by United States mail, postage prepaid and addressed to the applicable Party at the address as designated below:

Owner: James M Warner  
6239 County Road 36  
Platteville, Colorado 80651

Company: Magpie Operating, Inc.  
2707 South County Road 11  
Loveland, Colorado 80537  
Phone: (970) 669-6308

10. General Waivers; Consents.

10.1. General Waiver. Owner shall not oppose Company in any COGCC or other governmental proceeding related to Company's operations on the Lands, including, but not limited to, proceedings for permitting, formation of drilling units, Well spacing, well density, and pooling. Owner will provide Company with any written support Company may reasonably require to obtain permits or approvals from the COGCC or any local jurisdiction.

10.2. Setback Waiver. Owner understands and acknowledges COGCC has rules prescribe minimum distances between wellheads 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, Well Pad, road, equipment or facility on the basis of setback requirements of the COGCC Rules.

10.3. 318A Waiver. Owner hereby grants Company consent to locate Wells greater than fifty (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).

## 11. Indemnity and Release.

11.1. Definitions. The following terms shall have the designated definitions.

“Company Group” shall mean, individually or in any combination, Company, its parent, affiliate, and subsidiary entities, its and their joint venturers, joint interest owners, partners, co-owners, co-lessees, contractors and subcontractors of any tier, and each of their respective directors, officers, managers, agents, representatives, consultants, insurers, subrogees, employees, heirs, spouses, successors, assigns and invitees.

“Owner Group” shall mean, individually or in any combination, Owner, the Owners’ parent, affiliate, and subsidiary entities, and subcontractors of any tier, and each of their respective directors, officers, managers, agents, representatives, consultants, insurers, subrogees, employees, heirs, spouses, successors, assigns and invitees.

“Defend” shall mean the obligation of the indemnitor at the indemnitees’ election (i) to defend the indemnitees at the indemnitor’s sole expense or (ii) to reimburse the indemnitees for the indemnitees’ reasonable expenses incurred in defending themselves. Notwithstanding the indemnitees’ election of option (i) above, the indemnitees shall be entitled to participate in their defense at the indemnitees’ sole cost. All obligations to Defend shall include the obligation to reimburse the indemnitee for its reasonable expenses incurred in enforcing the indemnity, release, or protection obligations of this Agreement, as said costs, expenses or fees are incurred.

“Losses” shall mean claims, demands, causes of action of every name, nature or description, whether at common law, contract, statute or otherwise, legal proceedings, losses, liabilities, fines, penalties, indemnity obligations, costs, damages or expenses of any kind and character (including reasonable attorneys’ fees and other legal expenses and punitive, exemplary and the multiplied portion of multiplied damages).

11.2. Owner’s General Indemnity Obligation. OWNER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL LOSSES ARISING IN FAVOR OF ANY PERSON OR ENTITY ON ACCOUNT OF ANY LOSSES DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO OWNERS’S ACTIVITIES ON THE LANDS.

11.3. Company’s General Indemnity Obligation. COMPANY SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS OWNER GROUP FROM AND

AGAINST ANY AND ALL LOSSES ARISING IN FAVOR OF ANY PERSON OR ENTITY ON ACCOUNT OF ANY LOSSES DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATED TO COMPANY'S ACTIVITIES ON THE LANDS.

11.4. Joint Liability. IF ANY PERSON OR ENTITY SUFFERS A LOSS DUE TO THE JOINT OR CONCURRENT NEGLIGENCE OR FAULT OF A MEMBER OF COMPANY GROUP AND A MEMBER OF OWNER GROUP, EACH PARTY'S INDEMNIFICATION OBLIGATIONS IN SECTION 11.2 OR SECTION 11.3, RESPECTIVELY, SHALL BE PROPORTIONATE TO THE NEGLIGENCE OR FAULT OF ITS GROUP.

12. Miscellaneous.

12.1. Default and Right to Cure. In the event of an alleged breach by Company of the terms and conditions of this Agreement, Owner will notify Company, by certified mail, return receipt requested, of the alleged breach. If Company remedies the alleged breach within thirty (30) days of Owner's notice, or if the alleged breach is of a nature that cannot be remedied within thirty (30) days, if Company commences the remedy of the alleged breach within thirty (30) days and thereafter diligently pursues such remedy until the alleged breach is cured, no breach of this Agreement shall be deemed to have occurred.

12.2. Waiver. The failure of either Party to exercise any of its rights or remedies hereunder shall not act as a waiver of such rights or remedies nor shall such failure excuse the other Party from any of its obligations hereunder.

12.3. Recordable Instrument. Upon the request of Company, Owner shall execute and deliver any appropriate recordable surface leases, right-of-way agreements or easements for surface facilities or equipment, utility lines, Pipelines and roads which are used in connection with the Lands pursuant to this Agreement.

12.4. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of Colorado without regard to principles of conflicts of law. In entering into this Agreement, the Parties knowingly and voluntarily waive their right to a trial by jury.

12.5. Memorandum of Agreement. This Agreement shall not be recorded. The Parties shall record a memorandum of this Agreement with the County Clerk of Larimer County, Colorado.

12.6. Binding Effect. This Agreement shall be binding upon the Parties hereto and their respective heirs, administrators, representatives, successors and/or assigns, and shall be a covenant running with the Lands.

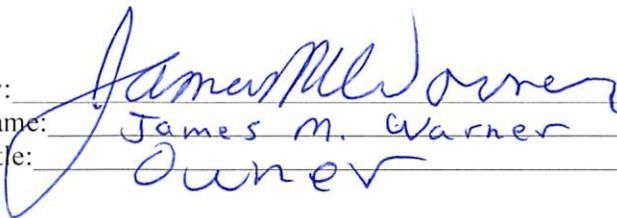
12.7. Full Agreement. This Agreement supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of Owner and Company pertaining to the subject matters hereof. No supplement, amendment, or alteration or modification of this Agreement shall be binding unless executed in writing by the Parties hereto.

12.8. Construction. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa; and the masculine gender shall include the feminine and neuter genders, and vice versa. The provisions of this Agreement have been independently, separately, and freely negotiated by the Parties as if drafted by both of them. The Parties waive any statutory or common-law presumption that would serve to have this Agreement construed in favor of or against either Party.

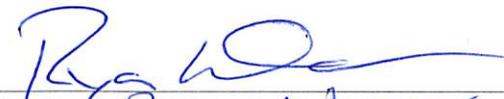
12.9. Headings. Section headings or captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend, or describe the scope of this Agreement or intent of any provision.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first written above.

James M. Warner

By:   
Name: James M. Warner  
Title: Owner

MAGPIE OPERATING, INC.

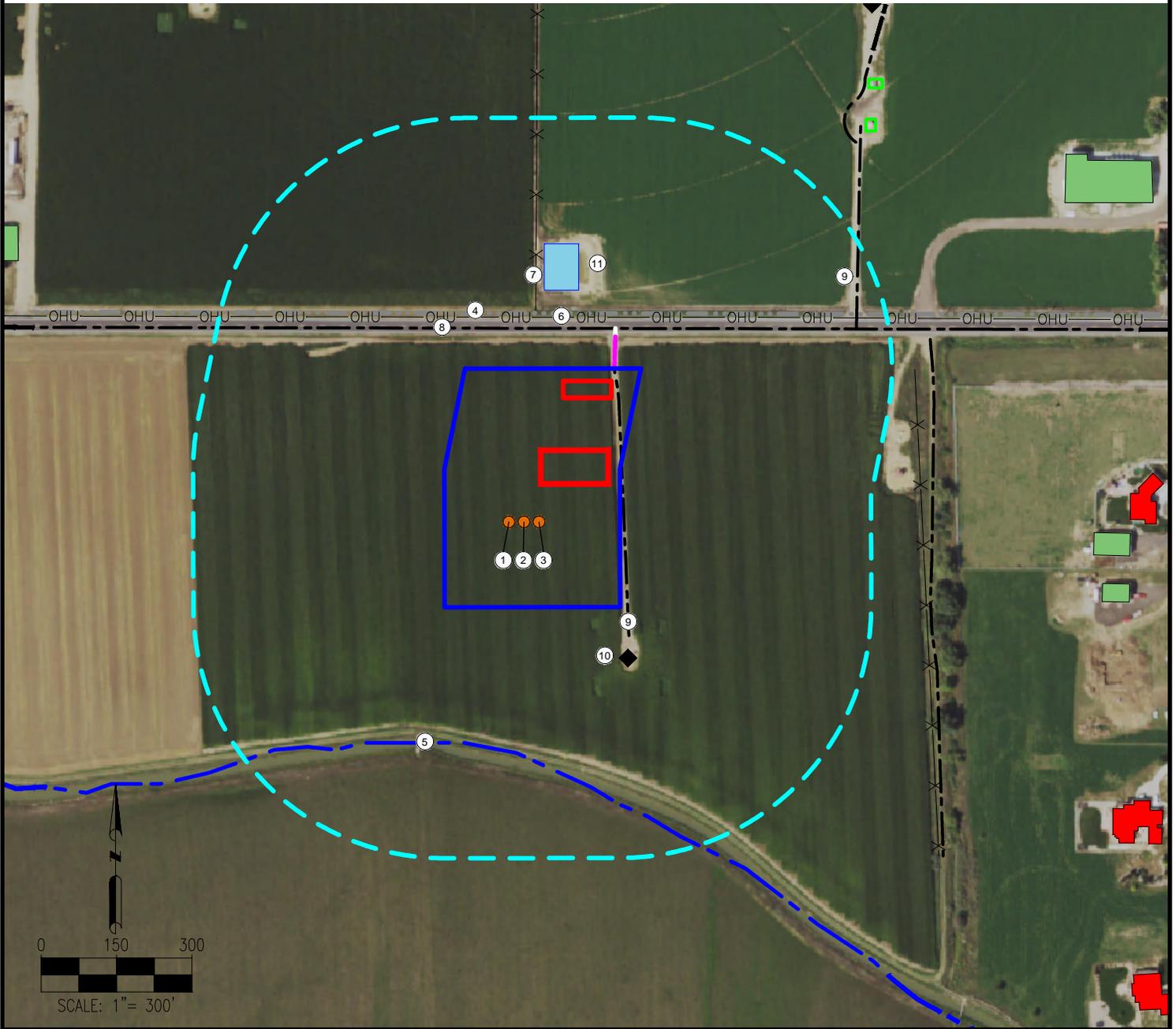
By:   
Name: Ryan Warner  
Title: Vice President

**EXHIBIT A**

Attached to and made a part of that Agreement dated May 1, 2018 by and between  
James M. Warner and Magpie Operating, Inc.

Description of Lands

# CAMPION PAD LOCATION DRAWING



- |                                  |  |
|----------------------------------|--|
| 1. CAMPION 5-6 #2H               | 9. PRIVATE ROAD IS ±199' E, ±765' NE       |
| 2. CAMPION 31-32 #1H             | 10. EXISTING WELL (2 PETERSON) IS ±341' SE |
| 3. CAMPION 5-6 #1H               | 11. POND IS ±463' N                        |
| 4. CONCRETE DITCH IS ±416' N     |  |
| 5. LAKE DITCH STREAM IS ±456' SW |  |
| 6. OVERHEAD UTILITY IS ±408' N   |  |
| 7. EXISTING FENCE IS ±422' N     |  |
| 8. HWY 60 IS ±374' N             |  |

<b>LEGEND:</b> <ul style="list-style-type: none"> <li><span style="color: orange;">●</span> = PROPOSED WELL</li> <li><span style="color: magenta;">- - -</span> = PROPOSED ACCESS ROAD</li> <li><span style="color: black;">◆</span> = PRODUCING WELL</li> <li><span style="border: 1px solid red; display: inline-block; width: 15px; height: 10px;"></span> = PROPOSED FACILITY BERM</li> <li><span style="color: blue;">- - -</span> = STREAM</li> <li><span style="border-bottom: 1px dashed cyan; display: inline-block; width: 20px;"></span> = 500' RADIUS</li> <li><span style="border: 1px solid red; display: inline-block; width: 15px; height: 10px;"></span> = BUILDING UNIT</li> <li><span style="border-bottom: 1px dashed cyan; display: inline-block; width: 20px;"></span> = BUILDING</li> <li><span style="color: blue;">X X</span> = FENCE</li> <li><span style="border-bottom: 1px dashed cyan; display: inline-block; width: 20px;"></span> = CONCRETE DITCH</li> <li><span style="background-color: lightblue; border: 1px solid blue; display: inline-block; width: 15px; height: 10px;"></span> = POND</li> <li><span style="border: 1px solid blue; display: inline-block; width: 15px; height: 10px;"></span> = DISTURBANCE AREA</li> <li><span style="background-color: lightblue; border: 1px solid blue; display: inline-block; width: 15px; height: 10px;"></span> = 500' RADIUS</li> <li><span style="background-color: lightblue; border: 1px solid blue; display: inline-block; width: 15px; height: 10px;"></span> = BUILDING UNIT</li> <li><span style="background-color: lightblue; border: 1px solid blue; display: inline-block; width: 15px; height: 10px;"></span> = BUILDING</li> <li><span style="color: blue;">-OHU-</span> = OVERHEAD UTILITY</li> </ul>		<b>MEASURED FROM NEAREST WELL OR FACILITY:</b> BUILDING ±976' SE BUILDING UNIT ±1034' NW PUBLIC ROAD HWY 60 ±93' N PROPERTY LINE (OLANDER STEVE) ±105' N UTILITY (POWERLINE) ±127' N RAILROAD +5280' SE <b>MEASURED FROM NEAREST EDGE OF DISTURBANCE:</b> SURFACE WATER (POND) ±156' N		<b>REFERENCE LOCATION</b> **CAMPION 31-32 #1H**  LAT: 40.348218° N LONG: 105.030970° W ELEVATION: 5068' 386' FNL & 1850' FWL PDOP: 1.6 GPS OPERATOR: CHARLIE SCOTT			
DISCLAIMER: THIS PLOT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AND SHOULD NOT BE RELIED UPON TO DETERMINE BOUNDARY LINES, PROPERTY OWNERSHIP OR OTHER PROPERTY INTERESTS. PARCEL LINES, IF DEPICTED HAVE NOT BEEN FIELD VERIFIED AND MAY BE BASED UPON PUBLICLY AVAILABLE DATA THAT ALSO HAS NOT BEEN INDEPENDENTLY VERIFIED.		DATA SOURCE: AERIAL IMAGERY: NAIP 2015 WATER WELLS: COLORADO DWR NHD: USGS  PUBLICLY AVAILABLE DATA SOURCES HAVE NOT BEEN INDEPENDENTLY VERIFIED BY ASCENT.		<b>MEASURED FROM NEAREST EDGE OF DISTURBANCE:</b> WATER WELL ±2721' N SWL = 11.5' PERMIT: 44-WCB RECEIPT: C350044		<b>DISTURBANCE ACREAGE:</b> 3.8 ACRES DRILLING OPERATIONS 1.9 ACRES INTERIM RECLAIM  CURRENT SURFACE USE: IRRIGATED CROP FUTURE SURFACE USE: IRRIGATED CROP	
7535 Hilltop Circle Denver, CO 80221 (303) 928-7128 www.ascentgeomatics.com		FIELD DATE: <b>01-05-18</b>  DRAWING DATE: <b>03-05-18</b>  BY: <b>JAG</b>		SITE NAME: <b>CAMPION PAD</b>  SURFACE LOCATION: LOT 2 NW 1/4 SEC. 5, T4N, R68W, 6TH P.M. WELD COUNTY, COLORADO		PREPARED FOR:  <b>MAGPIE OPERATING, INC.</b>	