

## **EXHIBIT A**

### **SURFACE USE, ACCESS, RIGHT-OF-WAY AND DAMAGE AGREEMENT**

#### **STATE MASSIVE 1H AND STATE ELBERT 1H DUAL WELL PAD**

**OM-3476**

THIS AGREEMENT, made and y effective this 1<sup>st</sup> of April, 2014 (the "Agreement") by and between the State Board of Land Commissioners ("Owner") with an address of 1127 Sherman Street, Suite 300, Denver, CO 80203 and ConocoPhillips Company ("Operator") with an address of 600 North Dairy Ashford, Houston, TX 77079, P.O. Box 2197, Houston, TX 77252. Owner and Operator are sometimes herein individually referred to as a "Party" and collectively referred to as "Parties."

#### **RECITALS**

A. Owner owns the surface estate for certain lands located in Arapahoe County, Colorado, as more fully described in the Oil and Gas Lease effective April 1, 2012 by and between the Owner, as Lessor, and Operator, as Lessee, Lease No. OG 1960.12, covering the lands described in the Lease referred to herein as the "Leased Premises"; and

B. Operator and the Owner have executed the Lease, and Owner acknowledges that the Operator may use so much of the surface as is reasonably necessary to explore for and produce oil and gas from the Leased Premises, subject to the express terms and conditions contained in the Lease, the Lease Stipulation attached as Exhibit B to the Lease, and in this Agreement; and

C. Operator has identified areas of the Leased Premises where Operator intends to propose Oil and Gas Operations as more specifically set forth on Exhibit A attached hereto (referred to for the purposes of this Agreement as the "Property").

D. Operator and Owner desire to work collaboratively to minimize and mitigate all surface impacts associated with Oil and Gas Operations consistent with Owner's obligations to ensure surface use is consistent with the Owner's long term stewardship goals as trustee for the beneficiaries of the State Land Board trusts to enhance the beauty, natural values, open space, and wildlife habitat of the Property; and

E. Operator and Owner desire to enter into this Agreement as a supplement to, but not in derogation of, Operator's leasehold rights granted in the Lease and Lease Stipulation; and,

#### **AGREEMENT**

NOW THEREFORE; for and in consideration of the mutual promises and agreements contained herein, and for the surface use payments required in advance of any drilling operations (the "Surface Use Payment") set forth below, the Parties hereby agree as follows:

1. **Definitions.** Capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease and accompanying Lease Stipulation.
2. **Lease Stipulation.** The Lease has attached thereto a Lease Stipulation that generally governs surface use and management, and sets forth lands for which no surface occupancy will be permitted (Tier 1 Lands), lands where controlled surface occupancy is allowed (Tier 2 Lands), lands where surface occupancy generally is permitted (Tier 3 Lands) and preferred surface occupancy Lands (Tier 4 Lands). The Operator shall refer to and abide by the terms of the Lease Stipulation in the conduct of all Oil and Gas Operations that impact the surface of the Property.
3. **Consultation.** Operator shall not enter onto the Property for the purpose of conducting Oil and Gas Operations without first consulting with Owner to determine the location for each proposed well pad(s), all necessary access roads, pipelines, gathering lines, flowlines, and production facilities, including, but not limited to, pumping units, tanks, heater/treaters, separators and emission control units ("Drilling and Production Facilities").
  - (a) The Operator shall initially contact the Owner no later than sixty (60) days in advance of filing an Application for Permit to Drill ("APD") with the Commission (the "Initial Consultation"). At the Initial Consultation the Operator shall inform the Owner of the Operator's intent to drill a well or wells on the Property, the proposed well locations and all

proposed access routes. The Parties shall consult and work cooperatively with any surface lessee or occupant in connection with finalization of this Agreement. The Parties shall work cooperatively to develop a comprehensive development plan for the Property prior to the Operator submitting any specific APD.

(b) The Parties shall agree in advance to the optimal surface locations for all Drilling and Production Facilities at locations that will cause the least impact to the surface consistent with the existing surface uses for the Property.

(c) Upon agreement as to each wellsite location and all ancillary Drilling and Production Facilities locations the Parties shall append an updated Map, identified as Exhibit B to be attached hereto and made a part of, that will specifically identify all areas of surface to be disturbed by Oil and Gas Operations. Operator shall not use any other access ways, well locations pipeline or flowline routes without the prior written agreement of Owner.

4. **Grant of Use.** Subject to the terms and limitations contained herein, Owner hereby gives, grants and conveys unto Operator and any approved assign and their agents, employees and contractors and subcontractors a non-exclusive easement to enter upon and use the surface of the Property for the purpose of conducting Oil and Gas Operations agreed to by the parties after consultation as provided for herein.

(a) This Agreement expressly excludes (i) the right to construct any waste disposal facilities, compressor stations, plants or other facilities not incidental to the operation of the individual wells to be located on the Property (ii) the right to inject waste drilling fluids, waste material or other deleterious substances into any well drilled on the Property.

(b) The use of water is not provided for under this Agreement and Operator shall not have the right to use water from Owner's property for Operator's operations on any wells except as may be provided for by specific agreement by and between Operator and Owner or Owner's designee for the purpose of drilling and completing said wells.

(c) It is expressly understood that the terms, conditions and limitations contained herein take into account the condition of and uses for the Property for the proposed location of the wells specifically identified and proposed in accordance with the terms herein. This Agreement shall not apply to any future operations on any new wells located on the Leased Premises that are not specifically identified and provided for in this Agreement.

(d) Owner and Operator acknowledge that this Agreement does not grant, convey or otherwise provide for use of the surface of the Property for the production of oil, gas or other hydrocarbons or for any rights-of-way for field operations or for the transportation of oil, gas or other hydrocarbons from locations off the Leased Premises if Owner is not entitled to share in such production by virtue of a pooling, communitization or unit agreement.

5. **Standard of Conduct and Compliance.** At all times Operator, its employees and all Contractors shall enter and use the Property and shall conduct all Oil and Gas Operations thereon in strict compliance with the rules and regulations of the Commission, the Lease, the Lease Stipulation and this Agreement always in a good, careful, safe, and workmanlike manner, and shall strive to identify and use the best management practices then available for surface management for Oil and Gas Operations.

6. **Posting of Conduct Standards – Operator's Continuing Liability.** The Operator shall notify its employees, and all Contractors of the standards of conduct contained in this Agreement, the Lease and the Lease Stipulation and each Contractor shall strictly abide by the terms hereof. The Owner shall look to and rely upon the Operator to ensure all parties affiliated or associated with Operator in any way comply with the terms of this Agreement. Should any breach or violation of this Agreement, Lease or Lease Stipulation by any third party occur, the Operator shall continue to be responsible and liable to the Owner for all costs and damages associated with the breach or violation, and for indemnity from claims of loss as provided herein.

7. **Initial Surface Use Payment.** All payments made to Owner shall be made in good funds payable by certified funds, cashier's check, wire transfer or a check from Operator. Payment shall be made no later than thirty (30) days prior to the proposed spud date for any well ("Payment Due Date").

(a) **Well Pad(s).** Operator shall pay to Owner the sum of \$3,500.00 for each surface acre disturbed for any well pad built for vertical or horizontal wells drilled on the Property. If

more than ten (10) acres is disturbed for any one well pad, with the permission of the Owner, the Operator shall pay to Owner \$5,000 per acre for each additional acre of land so used. The surface use payment shall be a one-time payment tendered in advance of the initial construction, or expansion (if additional lands are required), for each well pad to compensate the Owner for disturbance of the lands for Oil and Gas Operations. If the Operator continues to use the well pad for additional wells, the Operator shall be obligated to pay the annual use payment provided for in Section 11 (a).

(b) Access Roads. In the event Operator constructs roads on the Leased Premises, Operator shall pay to Owner \$20.00 per rod for use of any newly constructed roads. For any existing roads used by Operator on the Leased Premises Operator shall pay to Owner \$10.00 per rod for use of the existing roadways.

(c) Pipelines – Gathering Lines. Operator agrees to pay Owner an initial payment of Twenty Dollars (\$20.00) per linear rod for the construction of any underground flow-lines, gathering lines or pipeline located outside of any approved wellsite. All rights to use any underground facility constructed on the Property for wells drilled thereon shall terminate if production ceases to be allocated to the Leased Premises, provided the right to use any pipeline installed that benefits other properties shall not be terminated subject to the continued payment of the annual rental provided for herein.

(d) Utility Lines. In the event of production, Operator agrees to pay Owner an initial payment of Twenty Dollars (\$20.00) per linear rod of overhead utility lines constructed on the Property.

#### 8. Surface Use Standards – Wellsites.

(a) Locations. Wellsites shall be clustered to the maximum extent practicable to reduce surface use fragmentation, and to centralize exploration and production facilities. Generally, no more than one well pad shall be located in a given quarter section (or lot or parcel equivalent thereto), unless the Operator demonstrates the stewardship benefit of placing locations in closer proximity. To the maximum extent practicable, Oil and Gas Operations shall be sited at the edge of large habitat blocks to help reduce fragmentation of overall habitat blocks.

(b) Size. Operator shall restrict the production site to as small a dimension as possible for prudent Operations. Without the advance written consent of the Owner, the surface location shall not exceed ten (10) acres for drilling for any single well, and approximately, but no less than, two (2) acres for any resulting production site, including the area disturbed by any uphill cut or downhill fill. Should more than one well be drilled from a single pad site the surface location may be enlarged to accommodate the additional operations to avoid disturbance of multiple surface sites.

(c) Fencing. During drilling and completion of any Proposed Well, Operator agrees to fence the wellsite location with a wildlife friendly four strand wire fence secured by posts at appropriate intervals. Any pits shall be separately fenced and netted according to Owner's specifications to protect birds and wildlife. Final fencing materials for any permanent facilities shall be determined based on best management practices for the protection of wildlife, and agreed to by the Parties prior to installation.

(d) Production Containment. Operator will install and maintain steel containment rings around production tanks and associated facilities, and to install steel berms and impervious synthetic liner within bermed areas to prevent any hydrocarbons substances from infiltrating soil or ground water.

(e) Operational Notices. Operator shall give the Owner twenty-four (24) hours advance notice prior to the initiation of any Oil and Gas operations, including without limitation commencement of drilling, testing upon attainment of total depth and commencement of completion operations. Owner may request such notice be provided simultaneously to any surface lessee or occupant. Owner shall have the option, but not the obligation, to observe Operator, its agents, contractors or sub-contractors conducting Oil and Gas Operations, including without limitation fracing operations, subject to Owner's compliance with all of the Operator's safety protocols. Owner shall bear Owner's cost and expense of access, and Operator shall not be responsible or liable for Owner's gross negligence or willful misconduct.

(f) Site Preparation – Hydraulic Fracturing. Before transporting any hydraulic fracturing fluid onto any site, the Operator shall notify the Owner of the proposed number of frac

trucks to be used and the estimated time period to complete any fracture stimulation. Operator shall prepare the fracing site with appropriate impervious liners, and shall comply with all reasonable, additional safety measures required by the Owner in connection with such operations.

(g) No On-Site Storage. Unless otherwise agreed by Owner in writing, Operator shall not store any other equipment at the surface location for any well that is not necessary for Operator to produce hydrocarbons from the Leased Premises.

(h) Site Maintenance. Each wellsite shall be kept clean and free from debris in strict adherence to Commission standards. At the Owner's request Operator shall install additional screening, fencing, landscaping around a wellsite to minimize noise and aesthetic impacts and shall comply with the Reclamation Plan to be established and administered by the Owner.

(i) Painting. Unless otherwise agreed to by the Owner in writing, all facilities for a completed well, regardless of its surface location, shall be painted in accordance with Commission Rule 804, as amended from time to time.

## 9. Surface Use Standards – Roads

(a) Design. All roads will be designed and located in cooperation with Owner based upon the existing topography and will seek to minimize the surface impacts to the maximum extent practicable. The Parties will attempt to locate roads in higher areas of the Property, and away from areas used for recreational trails, drainage basins, and other sensitive land use.

(b) Drilling Roads. Access roads for drilling shall be limited in size to minimum size necessary to transport required drilling equipment and personnel. Roads shall be disked to level the vegetation with the application of water for stability and packing and maintained to minimize dust impacts and rutting of the surface. Acceptable road surfacing shall be determined by the Owner to ensure the road base will accommodate heavy drilling and completion tools. No drilling road shall exceed the maximum size of the Production Road defined in subsection (c).

(c) Production Roads. Completed production access roads on the Property shall be located as described in Exhibit B, attached hereto, including drainage and borrow ditches and other dozed or disturbed areas. The finished surface of the road on the Property shall be 16 feet in width as described in Exhibit B, attached hereto. Operator shall grade and contour all roads and shall apply an adequate amount of crushed aggregate and lighter gravel, or such other commensurate surface material to the length of the production road to minimize damage and rutting to the surface.

(d) Culverts. Culverts will installed by Operator for any roads as needed to maintain current drainage. Roads will be crowned to the extent necessary to ensure appropriate drainage.

(e) Maintenance. Operator shall keep all roads reasonably free of ruts and potholes, and shall conduct routine inspection, and complete routine maintenance operations to keep roads to the standards set forth herein. The costs of such maintenance and repair of all roads used for Oil and Gas Operations shall borne by Operator, provided if such road is used by other parties with access to the Leased Premises, the Owner shall cooperate with the Operator and the additional users to establish a maintenance cost sharing agreement providing for allocation of maintenance costs on a fair and reasonable basis, according to use and impacts by each user.

(f) Existing Fences. If it is necessary for any access road to go through existing fences, Owner shall have the right to determine whether gates, cattleguards, fence braces, or double-gated cattleguards shall be installed.

(g) Speed Limit – Monitoring. The speed limit on all access roads shall be twenty (20) miles per hour for all regular trucks and vehicles, and twenty (20) miles per hour for all oversized vehicles. Operator shall install one or more speed monitoring devices to enforce the speed limits set forth in this Agreement. Operator agrees that images or videos generated by such device and depicting speeding or other unacceptable conduct will be deemed to be proof of violation of this Agreement, and Operator shall address and remedy such conduct or be deemed in breach hereof.

(h) Use. Access roads shall only be used by Operator employees, its co-owners, its designated agents, contractors and subcontractors, state, local and federal regulators and any other person as required by law or court order to conduct Oil and Gas Operations. Off road

driving shall be strictly prohibited. The roads may also be used by Owner, and existing surface occupants, who shall be required to adhere to the same standards of conduct.

10. **Surface Use Standards – Utility Lines/Gathering Lines/Flow-lines/Pipelines**

(a) **Design.** All utility lines, pipelines, gathering or flow line (collectively “subsurface lines”) shall be placed in or along existing roadways to the maximum extent practicable.

(b) **Burial.** All subsurface lines shall be buried and maintained below forty (40”) inches of depth. Any trench required for subsurface lines shall be refilled and surface grade maintained level (when necessitated due to settling) so as not to adversely affect drainage and reclaimed to the standards set forth in the Reclamation Plan.

(c) **Easement.** Owner shall grant an easement not to exceed forty feet (40’) in width for the construction, installation, repair and maintenance of any single subsurface line. Operator shall disturb the minimum amount of surface acreage reasonably practicable when installing subsurface lines. The permanent easement for maintenance and repairs shall be reduced to thirty feet (30’) in width.

(d) **Construction Materials.** All pipelines and flowlines shall be constructed of steel or other material of comparable strength and durability, and wrapped as determined appropriate in order to prevent corrosion, leaks and degradation. Prior to backfilling all lines will be checked for damage to the protective coating and damage shall be repaired prior to final installation to insure pipeline and flowline integrity.

(e) **Testing.** Operator shall pressure test each flowline and pipeline to a pressure level adequate to confirm the mechanical integrity of the flowlines and pipelines annually, and following any fracing or restimulation to confirm pipeline and flowline integrity.

(f) **Termination.** All rights to use any subsurface line constructed on the Property shall terminate if Operator fails to use such for a period exceeding twenty-four consecutive months. At the request of the Owner the subsurface lines shall be removed and the Leased Premises disturbed in the removal operations shall be restored consistent with the Reclamation Plan.

11. **Annual Use Payments.** The payments set forth below (collectively the “Annual Payment”) shall be tendered to Owner on or before each successive anniversary of the Lease Effective date after production is established in accordance with the Lease terms. If any Annual Payment is not timely tendered it will accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, and be secured by a lien on Lessee’s share of production from the wells located on the Property.

(a) **Wellsites.** Operator agrees to pay to Owner annually for Operator’s continued use of each well site the sum of \$1,000 per surface location.

(b) **Access Roads.** Operator agrees to pay to Owner annually for Operator’s continued use of all access roads on the Property the sum of \$5.00 per rod.

(c) **Pipelines.** Until such time as pipeline sites are fully reclaimed, Operator agrees to pay to Owner annually for Operator’s continued use of all pipelines located off any well site but still on the Property the sum of \$5.00 per rod.

(d) **Annual Payment Adjustment.** On the 5<sup>th</sup> anniversary of this Agreement and every five years thereafter, the Annual Payment shall increase by \$500 per surface location and \$2 per rod of new access road.

(e) **Consolidated Use Payment.** In lieu of individual use payments provided for herein, Owner and Operator shall have the option, but not the obligation, to enter into an Agreement to provide for a single consolidated annual use payment for all of Operator’s surface operations on the Leased Premises.

12. **Surface Use Protocols**

(a) **Security.** Operator, at its sole cost and expense, shall install keypad entry [or combination lock] for all major access points to the Property. The keypad combination shall be

delivered to Owner upon installation and at any time there is a change to the keypad combination.

(b) UXO Safety. Contractors that will be conducting intrusive ground activities shall complete ordnance safety and recognition training with a USACE contractor to assist all Contractors on the Property in recognizing potential pieces of munitions or UXO items of concern from the site. A safety plan will outline the specific steps required to be taken by the onsite Contractors to protect human health and safety including protocols for stopping work in the area, contacting the USACE to evaluate the item, and determining if work can continue. If the Property includes any UXO target sites still undergoing remediation an operation plan will be developed in advance with assistance from State Land Board staff, USACE staff, USACE contractor representatives, and regulatory representatives from the Colorado Department of Public Health and Environment (CDPHE).

(c) Prohibited Uses. It is specifically understood that Operator's employees and Operator's agents, co-owners, contractors and sub-contractors shall not be allowed to possess or use drugs, alcohol or firearms on the Property. No dogs shall be allowed on the Property due to the presence of various species of wildlife and birds. No hunting, camping (recreational), or fishing will be allowed on the Property or adjoining lands owned by Owner by the Operator or its employees, agents, contractors or sub-contractors. All recreational uses shall be determined at the discretion of the Board consistent with the Stewardship Management Plan.

(d) GPS Monitoring. Operator will implement a Global Positioning System (GPS) based vehicle monitoring system to monitor the activity of Operator's vehicles on the Property. If Operator's employees, agents, subcontractors engage in unacceptable conduct on the Property such as driving at speeds that exceed the speed limit, Owner shall notify Operator of the conduct. Operator shall promptly investigate the basis of the complaint and take such remedial measures as may be warranted under the circumstances. Operator shall notify Owner of the resolution of any incidences. If any third-party contractor or other party acting under the direction of Operator does not have the technology necessary for GPS monitoring, the Operator shall diligently monitor and shall continue to be responsible for the conduct and operations of the contracting party to ensure compliance with surface use obligations contained in the Lease, Lease Stipulation and this Agreement.

(e) Noise. Operator agrees that with respect to its drilling and completion operations that it shall reduce all noise to levels at least as restrictive as those prescribed by Commission Rule 802, as amended from time to time. For all operations and equipment located within the proximity of any residence or recreational trail Operator shall further reduce the noise to a level reasonably satisfactory to Owner.

(f) Survey. No later than forty-five (45) days after the completion of construction of each new surface location and access road if any, Operator will cause the well-site locations and access roads to be surveyed by a licensed surveyor acceptable to Lessor. The surveyor shall provide to Owner a certified plat showing the actual size of the location and access road, including the total number of acres disturbed. If the survey shows disturbance that exceeds the size and location agreed to by the Parties, the Operator shall within ten (10) days reduce the size of any well pad or road to the size(s) provided for herein. If the Operator determines use of the excess surface is required to prudently operate, the Operator shall pay to the Surface Owner an amount equal to double the initial surface use and damage payment for the occupancy and use of all excess lands. The on site surveys shall be incorporated into the Baseline Studies provided for in the Lease Stipulation.

(g) Shut-in Wells. If any well is completed as a commercial producer and thereafter shut-in for any reason, including without limitation construction of a gas line, Operator shall notify Owner and shall work diligently toward connection of the shut-in well. The surface location for any well completed as a shut-in gas well shall be reclaimed within the timeframe set forth herein. If Operator later requires access to the shut-in wellsite to lay pipelines or flowlines, Operator shall pay for any damages associated with such access and shall bury the pipelines or flowlines and reclaim the disturbed lands as provided for herein.

(h) Compliance. In the conduct of any operations on Property pursuant to this Agreement by or at the direction of Operator, Operator agrees to comply with all Governmental Requirements. Governmental Requirements shall mean all applicable federal, state, or local statutes, laws, ordinances, codes, rules, regulations, and decrees regulating the installation, use, generation, manufacture, treatment, handling, refining, production, processing, storage,

disposition, release, or location of oil, gas, related hydrocarbons and petroleum products and regulations related to Hazardous Materials, defined hereinabove, including, without limitation, RCRA, CERCLA, the Superfund Amendments and Reauthorization Act, 10 U.S.C. §2701 et seq., the Federal Water Pollution Control Act of 1972, 33 U.S.C. §1251 et seq., the Clean Water Act of 1977, 33 U.S.C. §1251, the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Safe Drinking Water Act, 42 U.S.C. §201 et seq., the Colorado Oil and Gas Conservation Commission, Colo. Rev. Stat. §§ 34-60-101, et seq., the Colorado Water Quality Control Commission, Colo. Rev. Stat. §§ 25-8-101, et seq., and any applicable rules and regulations of the Colorado Department of Public Health and the Environment ("CDPHE") under any federal, state or delegated program.

(i) Governmental Cooperation. Provided Operator is in compliance with all terms of the Lease, the Lease Stipulation and this Agreement, Owner shall cooperate with the Operator in any agency or governmental proceedings, including but not limited to the Commission, County, City or local government, or other governing body proceedings, related to Company's operations on the Property, provided the Operator's position in such proceedings is consistent with this Agreement.

(j) Notices. All notices, consents or other instruments or communications provided for under this Agreement shall be in writing, signed by the party giving the same, and shall be deemed properly given and received (a) when actually delivered and received, personally, by mail, by messenger service, by fax or telecopy delivery or otherwise; (b) on the next business day after deposit for delivery by an overnight courier service such as Federal Express. All such notices or other instruments shall be furnished with delivery or postage charges prepaid addressed to the party at the address given in the first paragraph of this Agreement or such other address as such party may designate by written notice to the other party.

13. **Reclamation Standards.**

(a) Completion Timing. Each Proposed Well shall be completed as a producer or plugged and abandoned as a dry hole within a reasonable time, not to exceed one hundred eighty (180) days from the date of drilling rig release. Within a reasonable time, not to exceed one hundred eighty (180) days after the completion of all wells planned for a single well pad, the pad size shall be reduced to the acceptable production facility size stated above. If reclamation has occurred, and the pad has been reclaimed, and the Operator desires to reenter and re-access the pad site the Operator shall so notify Owner and the parties shall have the opportunity to discuss a surface use Agreement for the new operations.

(b) Reclamation Plan. Operator agrees to level, fill, re-contour and re-vegetate all disturbed surface in accordance with the approved Reclamation Plan.

(c) No Contamination. Operator agrees that it will leave, and keep, Property free from all contamination including but not restricted to, hazardous waste, oil, gas, petroleum, petroleum products, used oil, production waste, including produced water, distillates, or fractions or any other regulated substance, the presence of which on, in or under the Property is prohibited by any law, and shall comply with all regulations and requirements regarding any substance which by law, regulation or ordinance requires special handling or disposal.

(d) Inspection. Owner may request that Operator have an independent engineer, selected by Operator and acceptable to Owner, inspect and evaluate the wellsite, and if the independent engineer concludes there is a risk that the Property or adjoining lands and/or water may be materially and adversely affected as a result of Operator's operations on the Property, the Operator and Owner shall promptly consult regarding best mitigation practices that shall be implemented as soon as possible to minimize any damage to the Property or adjacent lands.

14. **Default.** Owner shall promptly notify Operator in writing of any default under this Agreement. Operator shall have thirty (30) days after receipt of written notification to remedy the default, unless additional time is reasonably required and the continuation of actions to remedy the default are diligently pursued.

(a) Continuing Damage Payment. If Owner is required to undertake legal proceedings to enforce the provisions of this Agreement, and because damages may be difficult to assess, in addition to any court awarded damages, if the Operator is determined to be in default in a final non-appealable judicial determination, the Operator shall be liable to Owner for liquidated damages associated with the default of not less than five hundred dollars (\$500.00) per



day while the default continues if the Operator fails to undertake and diligently pursue action to remedy the default.

(b) Damage and Contamination to Water Resources and Soil. Should Operator's Oil and Gas Operations damage or contaminate any of Owner's water resources, including without limitation (i) fresh water springs, ditches or other surface water resource or (ii) subsurface aquifer(s) not used for injection purposes or contaminate (iii) any soil or subsurface shallow aquifer as a result of any spill, release or leak from Operator's equipment, Operator shall correct and remediate any such violation within ten (10) days of Operator's receipt of written notice from Owner of such violation, provided if any such violation is an imminent threat to Owner's health, safety or welfare Operator shall immediately commence appropriate remediation operations. Operator's obligation to correct and remediate any water contamination shall continue after termination of this Agreement for any contamination identified as a result of the water testing required by this Agreement, and for any contamination that can reasonably be attributed to Operator's Oil and Gas Operations. Failure by Operator to correct or remedy such violation that impacts water resources within the timeframes set forth herein (provided if the remedy shall take in excess of ten (10) days Owner will allow Operator such additional reasonable time as may be necessary to remedy the violation provided Operator diligently pursues the remedy to cure), shall entitle Owner, at Owner's sole option to terminate this Agreement, provided if the Operator reasonably disputes responsibility for any such water contamination, prior to termination the Parties shall attempt to resolve the dispute through negotiation and mediation in accordance with Paragraph 20 of the Lease. Notwithstanding Owner's determination whether to terminate this Agreement, Operator shall pay to Owner for such damage and contamination to Owner's water resources the Damage Payment set forth in Paragraph 14.(a) above for as long as such damage or contamination continues.

(c) Excess Damage – Owner Self Help. Any real or personal property damages incurred by Owner as a result of Operator's operations that exceed the use of the Property provided for herein, and excepting any such damage which is attributable to Owner's actions, shall be remedied and compensation therefor paid within thirty (30) days after receipt of written notice from Owner specifying the damage. If Operator fails or otherwise refuses to completely repair any damage or fails to undertake maintenance needed to keep the surface location, fences and access roads in the condition provided for in this Agreement within thirty (30) days of being notified in writing by Owner, Owner shall have the option, but not the obligation, to repair the damage or cause the maintenance to be conducted on Owner's account. Operator shall reimburse Owner for any costs incurred by Owner to repair damage to lands or improvements or to complete the maintenance within thirty (30) days. Owner will submit documentation of costs incurred by Owner. Unreimbursed costs will accrue interest at the rate of eighteen percent (18%) per annum, compounded annually, and be secured by a lien on the completed wells and associated facilities.

15. **Agreement Construction.**

(a) Continuing Covenant. This Agreement shall constitute a covenant running with the land, and shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, representatives, successors and assigns.

(b) Assignment. This Agreement and the rights granted herein may not be assigned in whole or in part by the Operator without the advance written consent of the Owner, which consent may be granted or denied at the Owner's sole discretion. Any approved assignment shall not release the assignor from any liability or obligation under this Agreement accruing prior to such assignment or transfer.

(c) No recording. Owner and/or Operator shall not place this Agreement of record for public knowledge in the official records of Arapahoe County, Colorado. However, Owner and Operator shall have the option to execute a Memorandum of Surface Use, Access and Right-of-Way and Damage Agreement which may be recorded in the official records of Operator County, Colorado.

(d) Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Agreement, and there shall be substituted for the affected provision, a valid and enforceable provision as similar as possible to the affected provision.



(e) Term. The term of this Agreement commences with the effective date hereof and terminates upon the plugging, abandonment and reclamation of the wellsite for any proposed well and reclamation of the surface for all lands disturbed by Oil and Gas Operations in accordance with the Lease, the Lease Stipulation and this Agreement.

(f) Authority. Each of the undersigned Parties represents that such person has the requisite corporate or legal authority to bind the respective parties to this Agreement.

(g) Jurisdiction and Choice of Law. This Agreement and the transactions contemplated thereby shall be construed in accordance with and governed by the laws of the State of Colorado. The Parties hereby submit themselves to the exclusive jurisdiction of the Courts of the State of Colorado and to venue in the District Court for the Second Judicial District of Colorado.

(h) Typographical/Clerical Corrections. The Parties agree to cooperate to correct any typographical or clerical error included in this Agreement in order to clarify or correct the terms contained herein.

(i) Survival. Operator's obligations to remediate and reclaim Property and to hold Owner harmless from any liability, claims or damages resulting from Operator's operations, or the operations of Operator's assignees, co-owners, agents, contractors and sub-contractors on Property will survive the termination of this Agreement or expiration of its terms, and the plugging and abandoning of any of Said Wells.

(j) No Third Party Beneficiary. Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement, including other tenants, lessees or permittees of the Operator, or surface owners if any portion of the surface is not owned by the Owner.

16. **INDEMNITY.** OPERATOR SHALL FULLY INDEMNIFY, DEFEND AND HOLD OWNER, AND ITS AGENTS AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, LOSSES, LIABILITIES, DAMAGES, INCLUDING REASONABLE LEGAL FEES AND DISBURSEMENTS AND COSTS OF INVESTIGATION, LITIGATION, SETTLEMENT, JUDGMENT, INTEREST AND PENALTIES, TO THE EXTENT ARISING FROM ANY ACT OR OMISSION BY OPERATOR OR ANY CONTRACTOR, EMPLOYEE, AFFILIATE, OR OTHER PERSON ACTING ON OPERATOR'S BEHALF ON THE PROPERTY, EXCLUDING THE NEGLIGENCE, GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF OWNER, ITS AGENTS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, OR ANY PARTY ACTING AT THE DIRECTION OR UNDER THE DIRECT CONTROL OF THE OWNER. THE DUTY TO DEFEND AND INDEMNIFY SHALL EXTEND TO, BUT SHALL NOT BE LIMITED TO, CLAIMS OF ENVIRONMENTAL DAMAGE DUE TO SURFACE SPILLAGE OR THE UNDERGROUND EXCURSION OF CONTAMINATED FLUIDS THAT ARISE OUT OF OR ARE RELATED TO OPERATOR'S OIL AND GAS OPERATIONS, AND FROM ANY CLAIM FOR DAMAGES, INJURY OR DEATH THAT OCCURS OR IS IN WAY RELATED TO OPERATOR'S OIL AND GAS OPERATIONS.

17. Counterpart signatures. This Agreement may be executed in pdf or counterpart signatures each of which shall be considered an original and upon execution of all Parties shall be deemed a binding Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of April 1, 2014.

OWNER

State Board of Land Commissioners

By:

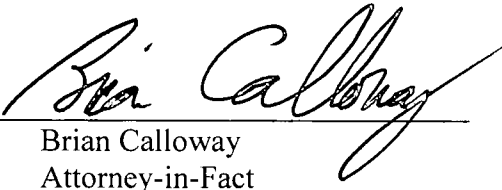
  
Timothy J. Kelly  
Oil and Gas Leasing Manager



OPERATOR

ConocoPhillips Company

By:

  
Brian Calloway  
Attorney-in-Fact

**EXHIBIT A**

To Surface Use Agreement dated April 1, 2014.

**Lands subject to SUA:** Section 2, T5S, R65W, 6<sup>th</sup> P.M., located in Arapahoe County, Colorado

**EXHIBIT B**

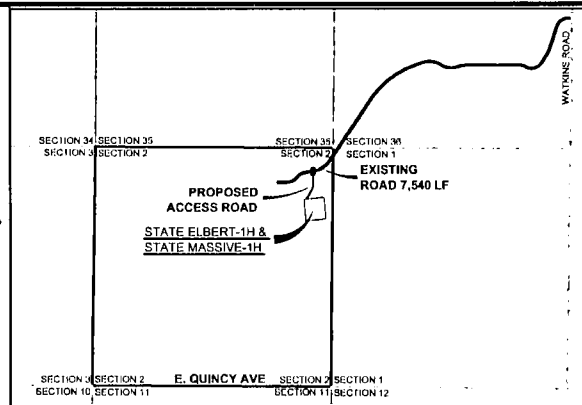
To Surface Use Agreement dated April 1, 2014.

**Oil and Gas Operations Plat:** See attached.

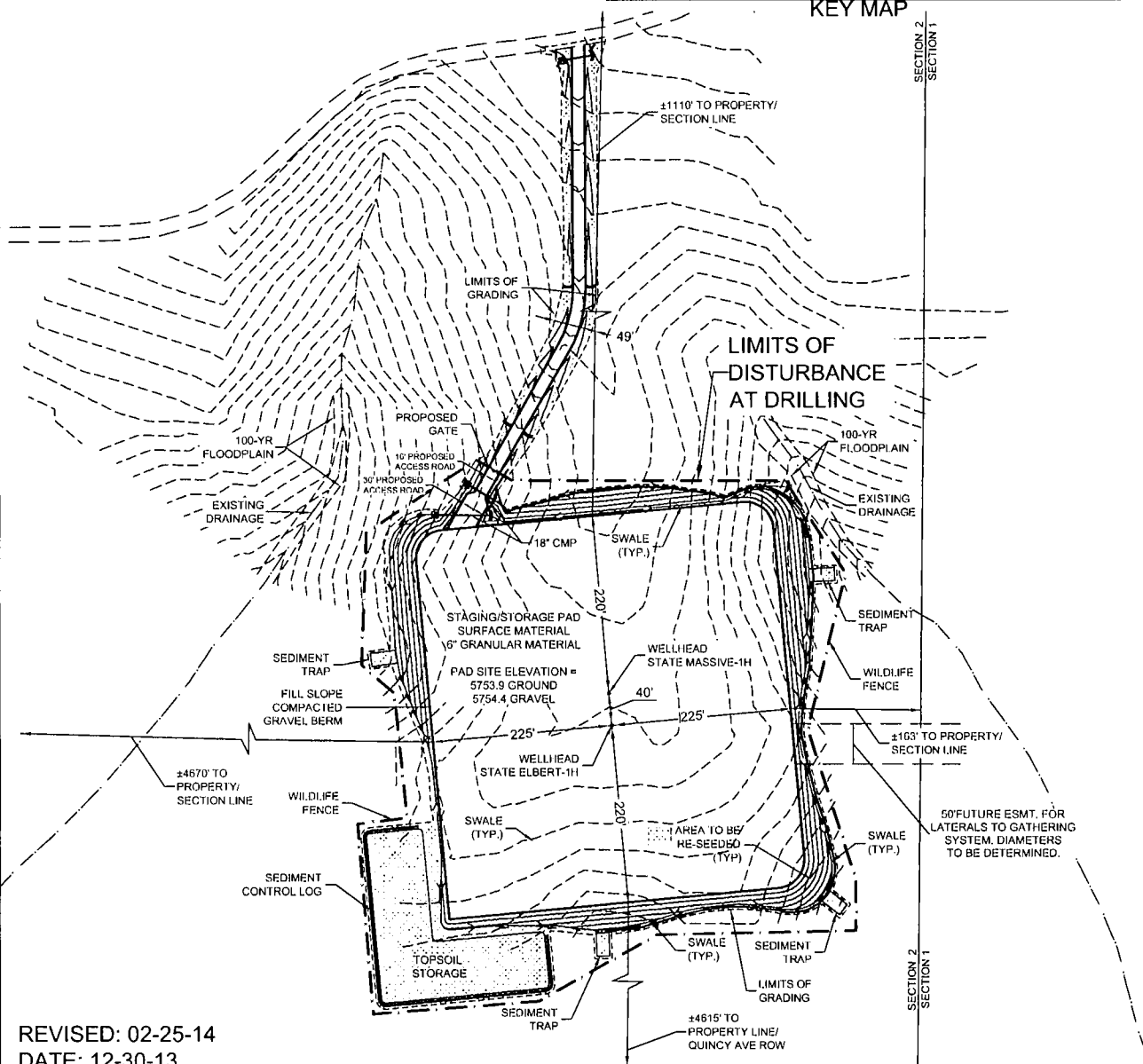
200 100 0 200 400

SCALE: 1" = 200'

PROPOSED ACCESS ROAD GRADING: 636 LF, 0.7 ACRES  
WELL PAD GRADING: 6.9 ACRES  
TOTAL GRADING: 7.6 ACRES  
AREA WITHIN WILDLIFE FENCE (LIMITS OF DISTURBANCE AT DRILLING) = 7.9 ACRES



KEY MAP



REVISED: 02-25-14  
DATE: 12-30-13

EXHIBIT B  
STATE ELBERT-1H & STATE MASSIVE-1H OIL & GAS WELLS  
SECTION 2 T5S R65W  
CONOCOPHILLIPS COMPANY

ATTN: MAXWELL BLAIR  
34501 E. QUINCY AVE. BUILDING 1  
WATKINS, CO 80137  
PHONE: (303) 268-3711



10333 E. Dry Creek Rd.  
Suite 240  
Englewood, CO 80112  
Tel: (720) 482-9526  
Fax: (720) 482-9546