

**MEMORANDUM OF
PRODUCTION WATER CUSTODY TRANSFER AGREEMENT**

This MEMORANDUM OF PRODUCTION WATER CUSTODY TRANSFER AGREEMENT (“Memorandum”) is made effective July 23, 2019 (“Effective Date”), by and between Caerus Piceance LLC (“Caerus”) and TEP Rocky Mountain LLC (“TEP”) sometimes referred to collectively as “Parties” or singularly as “Party” or “Supplier/Shipper” or “Receiver.”

RECITALS

- A. The Parties entered into that certain Production Water Custody Transfer Agreement (“Water Transfer Agreement”) made effective July 23, 2019, pursuant to which the Parties set forth the terms and conditions for possible transfers of water from either company’s operations in the Piceance Basin of Colorado. Actual transfers of water shall be also subject to the specific terms and conditions of Receiving and Transferring Water Reuse Plans (each, a “Water Plan” and collectively, the “Water Plans”).
- B. The water subject to transfer under the Water Transfer Agreement consists primarily of produced water from non-tributary, non-coalbed methane wells and flowback water from the Parties’ respective completion operations (collectively “Production Water”).
- C. Transfer of Production Water between the Parties is expected to significantly reduce water disposal volumes, wastes, haul distances and truck traffic and monetary costs, in addition to being consistent with State of Colorado regulatory agencies’ objectives of resource conservation, waste minimization and recycling and re-use of water.
- D. The Parties desire to include this Memorandum as an Appendix to their respective Water Plans to give notice of the existence of the Water Transfer Agreement and the legal responsibility for Production Water transferred between the Parties.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions contained herein and in the Water Transfer Agreement, Caerus and Laramie agree as follows:

- 1. **Defined Terms**. The defined capitalized terms used in this Memorandum shall have the meaning given them in the Water Transfer Agreement unless otherwise defined.
- 2. **Notice**. Notice is hereby given of the existence of the Water Transfer Agreement and certain provisions contained therein are described below. Authorized representatives of COGCC or other third parties with a legal right to know may contact either Party to schedule a review of an executed copy of the Water Transfer Agreement in its entirety, or any records that are required to be maintained under applicable law or promulgated regulations concerning the Water Transfer Agreement or related to transfers of Production Water between the Parties.
- 3. **Custody Transfer**. It is agreed that the transferring Party (“Supplier/Shipper”) shall maintain all legal and regulatory responsibility, custody and control for any Production Water that

is transferred under this Water Transfer Agreement until such time as it is Delivered to the receiving Party (“Receiver”), or its designee, at which point the Receiver will assume all legal and regulatory responsibility, custody and control for the Production Water. For purposes of this Water Transfer Agreement, “Delivered” or “Delivery” shall mean the instant the water leaves the water truck(s), water pipeline(s), water tank(s) or water storage pit(s) of the Supplier/Shipper, at the mutually agreed upon Transfer Location, and is taken into a vessel operated by the Receiver. The Parties shall agree on a written water measurement protocol. The Party having legal custody of the Production Water, as described in this Section 3, shall be the Party with primary responsibility for any spills or releases of Production Water, including notifications and clean-up, if and as applicable.

4. **Quality.** The Supplier/Shipper shall provide Receiver with water quality analysis. Costs associated with treatment of water to meet the water quality specifications of the Receiver will be borne by the Receiver.

5. **Quantity.** The specific quantities of Production Water to be transferred will be governed by and memorialized in the Water Plan.

6. **Usage.** The Supplier/Shipper warrants and represents that it has the right to use and consume all of the Production Water to be delivered to the Receiver and that such Production Water will come from non-coalbed methane wells determined to be “non-tributary” in accordance with applicable laws and regulations. In addition, the Supplier/Shipper warrants and represents that it has complied with all water permitting and related other legal requirements concerning its Production Water, including but not limited to any requirements from the Colorado State Engineer’s office and Bureau of Land Management (BLM), where applicable.

7. **Compliance.** Each Party shall comply with all applicable laws and promulgated regulations of governmental entities having jurisdiction over the Production Water, the Transfer Location, or the transfer process including without limitation: a) maintaining an approved plan for the management of its Production Water and its reuse of Production Water; b) timely notifying and reporting to the applicable regulatory authority reportable spills or releases of Production Water; c) maintaining laboratory analytical results of representative samples of its Production Water and waste generator/transfer records; d) conducting and maintaining records of environmental, health and safety training of personnel and procedures, and e) submitting electronically an annual report to COGCC within one year of completing its first transfer under each Water Plan; and (f) complying with COGCC 900 Rule Series for equipment, tanks and pits receiving the Production Water. Each Party shall also comply with all written policies and procedures provided to it by the other Party pertaining to the Transfer Location or the transfer process.

8. **Record Keeping and Reporting.** The Supplier/Shipper shall be the primary Party to maintain records of its Production Water and all transfers of Production Water between the Parties in accordance with applicable laws and promulgated regulations (each, a “Record of Transfer”). The Supplier/Shipper shall provide copies of its Record of Transfer within 30 days of completing the transfer which shall include the total volume Delivered. Each Party shall be responsible for preparing and submitting an Annual Report to the COGCC within one year of completing its first

transfer under such Water Plan, which will include a spreadsheet that includes the information contained in the Record(s) of Transfer.

9. **Term.** The Water Transfer Agreement shall be in effect beginning on the Effective Date until December 31, 2019 or until terminated by either Party by providing written notice to the other Party at least thirty (30) days prior to the effective date of the termination. The terminating Party is also responsible for notifying the COGCC in writing of the termination of the Water Transfer Agreement between the Parties.

10. **Relationship of the Parties.** Neither Party is the partner, agent or legal representative of the other, and there is no fiduciary relationship between them.

11. **No Amendment.** This Memorandum is executed and recorded solely for the purpose of giving notice and shall not amend nor modify the Water Transfer Agreement in any way. In the event of any conflict or discrepancy between the terms and conditions set forth in this Memorandum and the Water Transfer Agreement, the terms and conditions of the Water Transfer Agreement shall control.

12. **No Third-Party Beneficiary Rights.** This Memorandum and the Water Transfer Agreement shall be construed to benefit the Parties and their respective successors and assigns only, and shall not be construed to create third party beneficiary rights.

13. **Entire Agreement; Successors and Assigns.** This Water Transfer Agreement of which this Memorandum is evidence along with the applicable Water Plans contain the entire understanding of the Parties and supersede all prior agreements and understandings between the Parties relating to the subject matter hereof. The Water Transfer Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties. If there is a conflict between the terms of the Water Transfer Agreement and the terms as stated in this Memorandum, the terms of the Water Transfer Agreement will prevail.

14. **Additional Terms.** The Water Transfer Agreement contains additional provisions, terms and conditions, all of which are by this reference incorporated herein.

15. **Federal Oil and Gas Leases.** Transfers of Production Water originating from wells completed on federal oil and gas leases, shall meet the following additional requirements. The Party which is the operator of the completed oil and gas well on the federal oil and gas lease and, as such, the original Supplier/Shipper, shall be responsible for submitting a Sundry Notice as required by the BLM prior to any Production Water transfers along with any other information requested by the BLM. The Supplier/Shipper shall also be responsible for preparing and submitting an annual report as required by BLM for the previous year's transfers.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Water Transfer Agreement effective as of the date first above written.

Caerus Piceance LLC



7/23/19

Scott Gutberlet
General Manager, Caerus Energy Services

Date

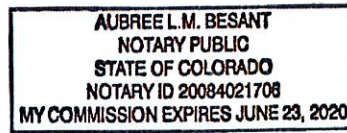
STATE OF COLORADO)
)ss:
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 23 day of July 2019, by Scott Gutberlet, [title] of Caerus Piceance LLC a Colorado limited liability company.

Aubree L. Besant
Notary Public in and for said State and County

MY COMMISSION EXPIRES:

June 23, 2020



TEP Rocky Mountain LLC

BRO S

7/24/19
Date

TEXAS
STATE OF ~~COLORADO~~)
)ss:
COUNTY OF HARRIS)

The foregoing instrument was acknowledged before me this 24th day of July 2019, by B.J. Reynolds, V.P. of Operations of TEP Rocky Mountain LLC.

Mark Tyler Stoltz
Notary Public in and for said State and County

MY COMMISSION EXPIRES:

July 11, 2022

