

AGREEMENT

THIS AGREEMENT is made and entered into this 18th day of December, 2009, and is by and among **KERR-McGEE OIL & GAS ONSHORE LP**, a Delaware limited partnership with an address of 1099 18th Street, Suite 1800, Denver, Colorado 80202 ("KMG"), **KERR-McGEE GATHERING LLC**, a Colorado limited liability company with an address of 635 N. 7th Avenue Brighton, Colorado, 80601 ("KMGG") and **ST. VRAIN VALLEY SCHOOL DISTRICT**, a public school district with an address of 395 S. Pratt Parkway, Longmont, Colorado 80501 (the "District").

RECITALS:

A. KMG currently is the owner of State of Colorado Oil and Gas Lease No. 70/8536-S dated October 21, 1970 (the "Lease"), covering all of Section 36, T2N, R68W, Weld County, Colorado (the "Lands").

B. KMG and Dacono Investment Company entered into a Surface Use Agreement dated November 16, 2007, recorded on November 27, 2007, at Reception No. 3519644 covering the E/2, SW/4 and E/2NW/4 of Section 36 above described. The Surface Use Agreement was amended on July 22, 2008, by an instrument recorded on July 31, 2008, at Reception No. 3569691 and again on September 17, 2008, by instrument recorded on October 20, 2008, at Reception No. 3585076. The Surface Use Agreement as amended is referred to as the "SUA."

C. KMG owns and operates two oil and gas wells on the Lands which are known as the Dacono State 2-36 Well located in the NW/4NE/4 of Section 36 above described and the Connie State 1-36A Well located in the NE/4NE/4 of said Section 36 (collectively the "Wells").

D. KMG also owns and operates oil and gas flowlines for the Wells that transport oil, gas and water to an oil and gas production facility located in the NE/4NE/4 of said Section 36 that services the Wells.

E. KMGG is an affiliate of KMG and owns a gathering pipeline that is located on the east line of the N/2NE/4 of said Section 36.

F. The Lands are located in the Town of Frederick, Colorado ("Frederick").

G. The District has acquired or is in the process of acquiring that portion of the Lands described on Exhibit A attached hereto (the "School Site") as the site of Frederick High School (the "School"), which is to be constructed.

H. To accommodate the District's plans to develop the School on the School Site, KMG and KMGG, (KMGG only with respect to the gathering pipeline referred to in Recital E above), have agreed to plug and abandon the Wells, relocate all production facilities, remove all flowlines and the gathering line from the School Site and to redrill the Wells from a location off the School Site.

I. This Agreement details, among other things, the duties, liabilities and responsibilities of KMG, KMGG and the District to accomplish the foregoing, the times within which the same are to be accomplished and the conditions that must be met before KMG and KMGG are obligated to commence any of the work contemplated by this Agreement.

NOW, THEREFORE, in consideration of the premises, the Recitals and of the covenants contained in this Agreement, KMG, KMGG and the District agree as follows:

1. KMG Undertaking: Subject to all of the terms and conditions contained in this Agreement, KMG agrees to plug and abandon the Wells, remove all flowlines, all production facilities and all other oil and gas improvements owned by KMG currently located on the surface and the subsurface of the School Site, (with the exception of the wellbores of the Wells after the same have been plugged and abandoned; provided; however, KMG agrees to cut down and cap the wellbore at no less than 10 feet below the surface), and to remediate the soils associated with the same to the standards of the Colorado Oil and Gas Conservation Commission ("COGCC") no later than March 1, 2010. Upon the payment to KMG of all the amounts provided for in Paragraph 6 below, KMG shall execute a Relinquishment of Surface Use Rights to the School Site in the form on Exhibit B, and shall deliver the same to the District for recordation in the Office of the Weld County Clerk and Recorder. KMG shall also release of record any express rights-of-way or easements of any kind or any portions thereof that purport to encumber or are located on the School Site. Except for excavations required in the soils remediation process, if any, KMG shall not be required to re-contour, level or grade the drillsites for the Wells, the site of the production facility and the flowlines.

2. KMGG Undertaking: Subject to all of the terms and conditions contained in this Agreement, KMGG agrees to remove the gathering pipeline and remediate the soils associated with the same to the standards of the COGCC no later than March 1, 2010. Upon the payment to KMG of all the amounts provided for in Paragraph 6 below, KMGG shall execute a Relinquishment of Surface Use Rights to the School Site in the form on Exhibit C, and shall deliver the same to the District for recordation in the Office of the Weld County Clerk and Recorder. KMGG shall also release of record any express rights-of-way or easements of any kind or any portions thereof that purport to encumber or are located on the School Site. Except for backfilling the excavation required for the removal of the gathering pipeline and excavations required in soils remediation process, if any, KMGG shall not be required to re-contour, level or grade the location of the gathering pipeline.

KMG and KMGG agree that the District shall have no liability for the disbursement as between KMG and KMGG of the amounts paid by the District pursuant to Paragraph 6, and KMG and KMGG agree to indemnify, defend and hold the District harmless for any dispute or claim arising from the payment by the District to KMG and KMGG.

3. District's Undertaking: Subject to the terms and conditions contained in this Agreement, the District agrees to pay KMG one million five hundred thousand dollars (\$1,500,000.00) at the times and in the manner provided for in Paragraph 6.

4. Conditions to KMG and KMGG's Undertakings: The following are the conditions precedent to KMG and KMGG's obligations to perform the work to be undertaken by them:

- a. An amendment suitable to KMG of the SUA providing for the re-drilling of the Wells at a location suitable to KMG in the approximate center of the N/2 of Section 36 above described and for the construction of a production facility or the expansion of an existing production facility to handle the gas, water and oil produced from the re-drilled Wells.
- b. A written consent and waiver from The State of Colorado acting through the State Board of Land Commissioners, as lessor of the Lease, specifically consenting to the plugging and abandonment of the Wells and the re-drilling of the Wells at a location off the School Site that is acceptable to KMG. The agreement will waive any claim or cause of action the lessor might have, if any, if the (i) Wells cannot be re-drilled for reasons beyond KMG's control (including but not being limited to COGCC permitting; Town of Frederick USR approval; and securing alternative location for wells; provided; however, KMG agrees to pursue these conditions with due diligence) and events of *force majeure* and (ii) the re-drilled Wells produce at lesser rates or have lower ultimate recoveries than the production rates and the estimated ultimate recoveries for the Wells.

KMG and KMGG will be under no obligation to close unless both the foregoing conditions precedent have been satisfied, and the District shall have no obligation to pay KMG and KMGG until and unless KMG and KMGG have become irrevocably committed to perform all of their obligations under this Agreement either because all conditions precedent as set forth above have been satisfied or because KMG and KMGG have waived those conditions precedent without further conditions.

Once this Agreement is fully executed, KMG will diligently pursue at its sole cost and expense the condition precedent referred to in subparagraph a. above. Once this Agreement is fully executed, the District will diligently pursue at its sole cost and expense the condition precedent referred to in subparagraph b. above. Each party will at its sole cost and expense cooperate with the other to complete the conditions precedent prior to the closing provided for below.

5. Allocation of Risk: Except with respect to the matters which are the subject of subparagraph 4 b. above, KMG will bear the entire cost, risk and expense of redrilling, operating, producing and maintaining the Wells, as relocated. It is specifically agreed that KMG will have no claim of any kind against the District if one or both of the Wells cannot be redrilled for any reason or that, when redrilled, one or both of the Wells produces less oil and/or gas from the formations that were abandoned in the Wells that were plugged and abandoned. Likewise, if one or both of the Wells when redrilled produces more oil and/or gas from the formations that were abandoned in the Wells that were plugged and abandoned, the District will have no claim against KMG for the value of the increased production.

Subject to KMG's plugging and abandoning the Wells as required by Paragraph 1 and the rules of the COGCC, the District hereby agrees to indemnify, defend and hold KMG harmless from and against any and all claims, causes of action or disputes to include all costs and expenses, including and not being limited to reasonable attorneys' and expert witness fees and the costs of litigation or other form of dispute resolution ("Claims"), arising from or in any way connected with the District's decision to construct facilities on the School Site 30 feet or less to the plugged and abandoned wellbores of the Wells. The District hereby acknowledges that KMG has offered no advice or made any representations to the District concerning the suitability of the School Site for the purposes intended by the District. The District further acknowledges that the decision to proceed with any construction on the School Site is the decision of the District. Except for damage done by KMG to the School Site or any improvements constructed by the District on the School Site that are 30 feet or less to the wellbores of the Wells after they are plugged and abandoned, nothing herein shall be construed to release KMG and/or KMGG for their respective negligence or intentional acts or omissions in the performance of their respective obligations hereunder (including any subsequent remedial work) which is the cause of and results in damages to the School Site or improvements thereon or injuries to persons on the School Site. Notwithstanding the immediately preceding sentence, it is expressly understood and agreed that KMG and KMGG shall have no liability to the District for any damage (except for damages or injuries resulting from KMG and/or KMGG's negligence or intentional acts or omission in performing any such remedial work) done to the School Site or any improvements constructed on the School Site which improvements are 30 feet or less to the wellbores of the Wells that are caused or in any way connected with any remedial work KMG performs on the Wells after they are plugged and abandoned.

Unless otherwise provided under this Agreement, KMG and KMGG retain all claims, costs, expenses, liabilities and obligations accruing or relating to the operation of the Wells and the production, transportation, marketing of oil and gas from the Wells for the period of time before the completion of their undertakings as described in Paragraphs 1 and 2 of this Agreement. Once KMG and KMGG complete their undertakings, they shall have no liability for the condition of the School Site for conditions created after the completion of their respective undertakings; except for any such new condition arising after the completion of KMG and KMGG's undertaking which is created by KMG or KMGG. Nothing herein shall be construed to release KMG and/or KMGG from any damage, claim, cost, expense, liability or obligation arising from their on-going and future operations on property adjacent to the School Site or in the proximity of the School Site which causes damages to the School Site (and improvements thereon) or injury to a person or persons on the School Site.

6. Closing and Payments: With the satisfaction or with the waiver of the conditions set forth in Paragraphs 4 a. and 4. b., the closing of the transaction contemplated by this Agreement shall take place at the offices of KMG at 1099 18th Street, Suite 1800, Denver, Colorado 80202-1918 at 10:00 a.m. on December 18, 2009 or such other time and place as may be mutually agreed by the parties; provided that such change in closing date does not delay the completion date of KMG and KMGG's work. At closing, the District shall deliver to KMG in good funds Five Hundred Thousand Dollars (\$500,000.00).

Upon completion of the plugging and abandoning and removal of all facilities, Wells, and pipelines from the School Site as set forth in this Agreement, the District shall pay KMG One Million Dollars (\$1,000,000.00).

Until all of the conditions precedent to closing have been satisfied, KMG and KMGG will be under no obligation to close. KMG and KMGG in their sole and absolute discretion can elect to waive in writing one or both of the conditions precedent and close provided, however, if the condition precedent contained in subparagraph 4 b. is not satisfied by the closing and if KMG waives the satisfaction of that condition precedent, the District agrees to continue to use its best efforts to satisfy the same, but the District shall not be liable for any damages or claims based on the failure to obtain the agreement provided for in subparagraph 4. b.

If both of the conditions precedent to closing have not satisfied or waived by the closing date referred to above, the District or KMG/KMGG may terminate this Agreement in which event the parties shall have no further obligations under this Agreement except those that expressly survive termination. Unless so terminated, the closing date shall automatically be extended for 30 days and the District and KMG and KMGG shall continue to diligently pursue satisfaction of those conditions that are not satisfied.

7. Default:

- a. If the District defaults in the payment of any money due hereunder, the unpaid balance shall bear interest at the rate of 1.5% per month until paid. If KMG engages an attorney to collect any amounts due hereunder, the District will be liable for and pay the costs of collection incurred by KMG including court costs and all costs of litigation, arbitration or other form of dispute resolution, if any, and reasonable attorneys' fees to include the fees of staff attorneys of KMG and KMGG.
- b. If closing occurs, KMG and KMGG shall be severally but not jointly liable for failure to perform their respective obligations hereunder to the District for damages suffered by the District as a result of KMG's and/or KMGG's failure to complete plugging and abandoning the Wells, removing flowlines, facilities and the gathering line on or before March 1, 2010 such that the District is unable to commence construction activities on the School Site as of March 1, 2010. KMG, KMGG and the District agree to coordinate their activities on the Lands to the degree necessary to permit KMG and KMGG to complete their undertakings by March 1, 2010 and to permit the District to develop the School Site in accordance with its schedule. With respect to the plugging and abandoning of the Wells, removal of the flowlines, facilities and gathering line, the parties agree that time is of the essence. In the event of default by KMG and/or KMGG under this Agreement, KMG and/or KMGG will be responsible for any and all damages including but not limited to the contractor's increased charge to the District to expedite work to meet the District's deadline for completion and opening of the School, or to pay for the costs of temporary structures and facilities for the

operation of the School; provided, however, KMG and KMGG will not be liable for damages under this subparagraph 7. b. in excess of \$1,500,000.00.

8. Limitation of Liability, Release and Indemnity:

- a. No party shall be liable for, or be required to pay for, special, punitive, exemplary, incidental, consequential or indirect damages to any other party for activities undertaken within the scope of this Agreement, except as otherwise specifically provided herein in this Agreement.
- b. Each party shall be and remain responsible for its own liability for all losses, claims, damages, demands, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation attorneys' fees and other costs associated therewith (all of the aforesaid herein referred to collectively as "Claims"), arising out of or connected with each such party's ownership or operations on the Lands, no matter when asserted, subject to applicable statutes of limitations. Each such party shall release, defend, indemnify and hold the other parties, their officers, directors, employees, successors and assigns, harmless against all such Claims. This provision does not, and shall not be construed to, create any rights in persons or entities not a party to this Agreement, nor does it create any separate rights in parties to this Agreement other than the right to be indemnified for Claims as provided herein.
- c. The indemnities of the parties herein shall not cover or include any amounts which the indemnified party is actually reimbursed by any third party. The indemnities in this Agreement shall not relieve any party from any obligations to third parties.
- d. If a Claim is asserted against a party for which the other party would be liable under the provisions of this paragraph, it is a condition precedent to the indemnifying party's obligations hereunder that the indemnified party give the indemnifying party written notice of such Claim setting forth all particulars of the Claim, as known by the indemnified party, including a copy of the Claim (if it is a written Claim). The indemnified party shall make a good faith effort to notify the indemnifying party within five days of receipt of a Claim and shall affect such notice in all events within such time as will allow the indemnifying party to defend against such Claim.

9. Other Provisions:

- a. Each party represents that it has the full right and authority to enter into this Agreement.
- b. The terms, covenants, and conditions hereof shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

- c. Unless sooner terminated, this Agreement shall become effective when it is fully executed and shall remain in full force and effect until the undertakings of the parties as described in paragraphs 1 through 3 have been completed.
- d. Any notice or other communication required or permitted under this Agreement shall be sufficient if deposited in U.S. Mail, postage prepaid, addressed to each of the following:

If to KMG:

Kerr McGee Oil & Gas Onshore LP
1099 18th Street, Suite 1800
Denver, Colorado 80202
Attention: Director of Land Denver Basin

If to Kerr-McGee Gathering

Kerr-McGee Gathering LLC
1099 18th Street, Suite 1800
Denver, CO 80202
Attention: Wattenberg Area Midstream

If to the District:

St Vrain Valley School District
395 S. Pratt Parkway
Longmont, Colorado 80501
Attn: Rick Ring and Brian Lamer

Any party may, by written notice so delivered to the other parties, change the address or individual to which delivery shall thereafter be made.

- e. This Agreement and any amendment hereto shall not be recorded in the records of Weld County, Colorado.
- f. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be resolved by arbitration conducted in Denver, Colorado and shall be administered by the American Arbitration Association under its commercial rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

- g. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without reference to its conflict of laws provisions.
- h. This Agreement sets forth the entire understanding among the parties hereto regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by all parties.
- i. This Agreement may be executed in any number of counterparts each of which shall be deemed an original instrument but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

KERR-McGEE OIL & GAS ONSHORE LP

By: Michael A. Nixon
Michael A. Nixon
Agent and Attorney-in-Fact *me*

KERR-McGEE GATHERING LLC

By: Michael A. Nixon
Michael A. Nixon
Agent and Attorney-in-Fact *me*

ST. VRAIN VALLEY SCHOOL DISTRICT

By: Rich Ring
Name: Rich Ring
Title: Assistant Superintendent

EXHIBIT A
To
Agreement

[Description of School Site]

EXHIBIT

PARCEL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 68 WEST OF THE 6TH P.M., TOWN OF FREDERICK, COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 36;

THENCE N89°44'15"E, 2,625.18 FEET ALONG THE NORTHERLY LINE OF SAID SECTION 36 (BASIS OF BEARINGS) TO THE NORTHEAST CORNER OF SAID SECTION 36;

THENCE S00°07'13"E, 1,301.54 FEET ALONG THE EASTERLY LINE OF SAID SECTION 36;

THENCE S89°52'47"W, 145.15 FEET;

THENCE 151.49 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 49°35'52", AND A CHORD BEARING N65°19'17"W, 146.80 FEET;

THENCE N40°31'21"W, 155.39 FEET;

THENCE 151.49 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 178.00 FEET, A CENTRAL ANGLE OF 49°35'52", AND A CHORD BEARING N65°19'17"W, 146.80 FEET;

THENCE S89°52'47"W, 191.86 FEET;

THENCE 100.40 FEET ALONG THE ARC OF A TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 32°52'22", AND A CHORD BEARING S73°26'36"W, 99.03 FEET;

THENCE S57°00'25"W, 150.41 FEET;

THENCE 100.40 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 175.00 FEET, A CENTRAL ANGLE OF 32°52'22", AND A CHORD BEARING S73°26'36"W, 99.03 FEET;

THENCE S89°52'47"W, 954.21 FEET;

THENCE 543.85 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 925.00 FEET, A CENTRAL ANGLE OF 33°41'13", AND A CHORD BEARING N26°20'21"W, 536.05 FEET;

THENCE N43°10'57"W, 418.40 FEET;

THENCE 357.31 FEET ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 475.00 FEET, A CENTRAL ANGLE OF 43°05'58", AND A CHORD BEARING N21°37'58"W, 348.94 FEET;

THENCE N00°04'59"W, 80.00 FEET TO THE POINT OF BEGINNING, CONTAINING 62.69 ACRES, MORE OR LESS.

**FUTURE FREDRICK
HIGH SCHOOL SITE
FREDERICK, COLORADO**

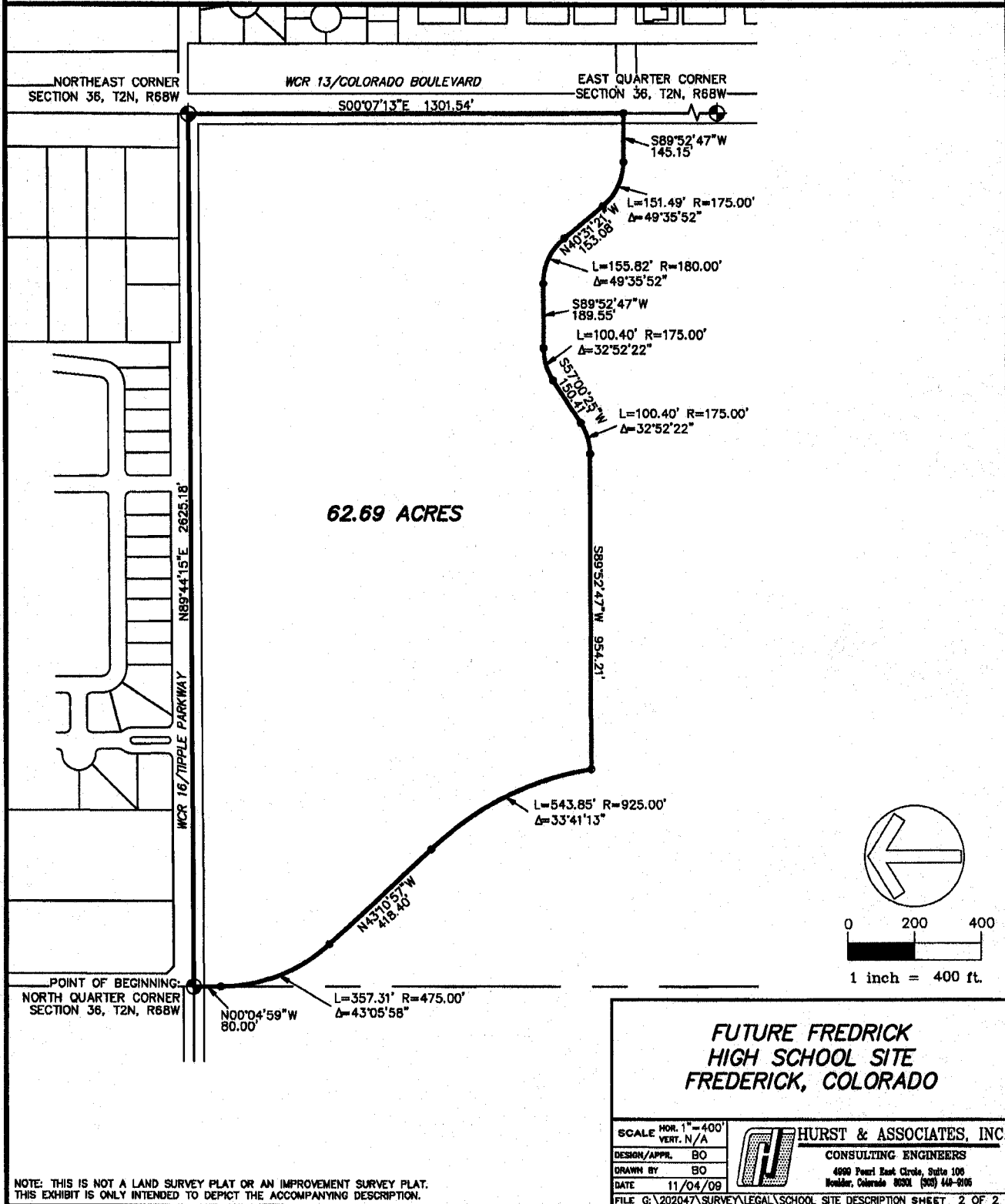
SCALE	HOR. N/A VERT. N/A
DESIGN/APPR.	BO
DRAWN BY	BO
DATE	11/04/08



HURST & ASSOCIATES, INC.
CONSULTING ENGINEERS
4990 Pearl East Circle, Suite 100
Boulder, Colorado 80301 (303) 440-0105

FILE G:\202047\SURVEY\LEGAL\SCHOOL SITE DESCRIPTION SHEET 1 OF 2

EXHIBIT



NOTE: THIS IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT.
 THIS EXHIBIT IS ONLY INTENDED TO DEPICT THE ACCOMPANYING DESCRIPTION.

EXHIBIT B

To
Agreement

[KMG's Relinquishment of Surface Use Rights]

RELINQUISHMENT OF SURFACE RIGHTS TO PROPERTY

THIS **RELINQUISHMENT OF SURFACE RIGHTS TO PROPERTY** is made this ____ day of _____, 200_, by and between **KERR-McGEE OIL & GAS ONSHORE LP** ("Grantor"), and **ST. VRAIN VALLEY SCHOOL DISTRICT** (as "Grantee"). The Grantor hereby releases, relinquishes quitclaims and surrenders to the Grantee all of Grantor's right to enter upon the surface of the real property and the subsurface of the real property within 500 feet of the surface described as follows:

see attached **Exhibit 1** incorporated herein by reference (the "School Site")

and further agrees not to install any surface facilities for the extraction, production or marketing of oil and gas on the School Site or within 350 feet from the outer boundaries of the School Site and Grantor will not install any subsurface facilities beneath the School Site within 500 feet of the surface of the School Site.

Grantor also hereby covenants and agrees that Grantor, its successors and assigns, shall not conduct oil and gas operations on the School Site or within 350 feet from the outer boundaries thereof. The foregoing shall be deemed a covenant running with the land which shall benefit the surface estate of the School Site and which shall burden the oil and gas leasehold estate of Grantor, its successors and assigns.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed by its _____ as of the day and year first above written.

KERR MCGEE OIL & GAS ONSHORE LP

By: _____
Its: _____

)

) ss.

)

Onshore LP.

Witness my hand and official seal.

My Commission expires: _____

Notary Public

EXHIBIT C

To
Agreement

[KMGG's Relinquishment of Surface Use Rights]

RELINQUISHMENT OF SURFACE RIGHTS TO PROPERTY

THIS **RELINQUISHMENT OF SURFACE RIGHTS TO PROPERTY** is made this ____ day of _____, 200_, by and between **KERR-McGEE GATHERING LLC** ("Grantor"), and **ST. VRAIN VALLEY SCHOOL DISTRICT** (as "Grantee"). The Grantor hereby releases, relinquishes, quitclaims and surrenders to the Grantee all of Grantor's right to enter upon the surface of the real property and the subsurface of the real property within 500 feet of the surface described as follows:

see attached **Exhibit 1** incorporated herein by reference (the "School Site")

and further agrees not to install any surface facilities for the extraction, production or marketing of oil and gas on the School Site or within 350 feet from the outer boundaries of the School Site and Grantor will not install any subsurface facilities beneath the School Site within 500 feet of the surface of the School Site.

Grantor also hereby covenants and agrees that Grantor, its successors and assigns, shall not conduct oil and gas operations on the School Site or within 350 feet from the outer boundaries thereof. The foregoing shall be deemed a covenant running with the land which shall benefit the surface estate of the School Site and which shall burden the oil and gas leasehold estate of Grantor, its successors and assigns.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed by its _____ as of the day and year first above written.

KERR-McGEE GATHERING LLC

By: _____
Its: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day _____ of _____, by _____, as _____ for **KERR-McGEE GATHERING LLC**.

Witness my hand and official seal.

My Commission expires: _____

Notary Public