

SURFACE USE AGREEMENT

This Surface Use Agreement ("Agreement") is dated and made effective this 12th day of October, 2006, and is between Kerr-McGee Oil & Gas Onshore LP ("KMG") with an address of 1999 Broadway, Suite 3700, Denver, CO 80202, and Dacono Cottonwood, Ltd. ("Surface Owner") with an address of 14875 Landmark Blvd., Suite 306, Dallas, Texas 75240.

A. Surface Owner owns the surface estate of that certain tract of land more particularly described on Exhibit "A" attached hereto, being a part of the SE ¼, Sec. 12 Township 1 North, Range 68 West, of the 6th P.M., Weld County, Colorado (hereinafter referred to as the "Property");

B. Surface ownership of the Property is subject to the rights of the oil and gas mineral leasehold estate, a portion of which is now owned by KMG;

C. Surface Owner plans to develop the surface of the Property as a subdivision known as "Cottonwood";

D. KMG currently operates one (1) well(s) on the Property, known as "E. W. Graham 'C' True #1" (the "Existing Well") generally located in the SW/4SE/4, T1N, R68W and may have the right to develop its oil and gas leasehold estate by drilling additional wells on the Property in the future (the "Future Well(s)"); and

E. This Agreement sets forth the parties' rights and obligations regarding the relationship between the development of the Property by Surface Owner and KMG's operation and development of its oil and gas leasehold estate underlying the Property, such rights and obligations to be binding upon the parties' successors and assigns.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. AREAS RESERVED FOR THE EXISTING WELL AND FUTURE WELLS.

Surface Owner shall set aside and provide to KMG that portion of the Property hereinafter referred to as the, "**Oil and Gas Operations Areas**", such area(s) being depicted on Exhibit "B" attached hereto. The Oil and Gas Operations Areas are to be made available to KMG in their present condition for any operations conducted by KMG in connection with the Existing Well or any Future Wells, including, but not limited to, drilling and production activities, workovers, well deepenings, recompletions, fracturing and replacement wells. Except for the Oil and Gas Operations Areas, and the access roads and easements associated with flowlines, gathering lines and pipelines as provided in this Agreement, KMG shall not occupy the surface of the Property except in the event of an emergency or for reasonable incidental, temporary and non-damaging activities, for which KMG shall be strictly and solely responsible for any damages that may occur.



2. WELL LOCATIONS.

KMG shall have the right to drill Future Wells within the Oil and Gas Operations Areas as shown on Exhibit B, including horizontal and directional wells that produce from and drain lands other than the Property provided such lands are validly pooled with all or any portion of the lands included in KMG's oil and gas lease covering the Property, and so long as such locations are permitted locations under the then applicable well spacing regulations of the Colorado Oil and Gas Conservation Commission ("COGCC") or exceptions granted thereto by the Director of the COGCC. As part of the consideration for this Agreement, Surface Owner hereby waives its right to, and covenants that it shall not protest or object to any such exception location or application for same by KMG. KMG shall not otherwise have the right to drill new wells on the Property which are not within the Oil and Gas Operations Areas. Except as shown on Exhibit B, the wellhead location of any Future Well drilled from any Oil and Gas Operations Area shall not be closer than 150' from a residential lot line.

3. SETBACK REQUIREMENTS.

Surface Owner will not locate any lot line, building, or structure within any Oil and Gas Operations Area. Surface Owner understands and acknowledges that the COGCC has rules and regulations that apply to the distance between a wellhead and public roads, production facilities, building units and surface property lines, among other things. In order to give full effect to the purposes of this Agreement, Surface Owner hereby waives its right to object to the location of any of KMG's facilities on the basis of setback requirements in the rules and regulations of the COGCC, as they may be amended from time to time. Surface Owner further and similarly waives its right to object to any other state or local setback requirements or other requirements or regulations that are or become inconsistent with this Agreement or that would prohibit or interfere with the rights of KMG, its successors and assigns, to explore for and produce the oil and gas in accordance with this Agreement. KMG or its successors and assigns may cite the waiver in this paragraph in order to obtain a location exception or variance under COGCC rules or from any other state or local governmental body having jurisdiction. Surface Owner agrees not to object to the use of the surface in the Oil and Gas Operations Areas so long as such use is consistent with this Agreement and Surface Owner will provide KMG or its successors and assigns with whatever written support they may reasonably require to obtain permits from the COGCC or any local jurisdiction.

4. GATHERING LINES AND FLOWLINES.

Subject to the limitations hereinafter described, KMG has a continuing right and entitlement to own, operate, maintain, repair and replace all flowlines, gathering lines and other pipelines that may be necessary or convenient to its operations on the Property. Although this Agreement is intended to confine the placement of those pipelines to certain specified locations within the Property, nothing herein shall be construed as a limitation on KMG's ultimate right to make all necessary well connections to any Existing or Future Well, provided, however, that Surface Owner shall have the right to relocate any flowline, gathering line or pipeline at Surface Owner's sole cost and expense so long as such relocation is feasible and reasonable from a technical and engineering standpoint as determined by KMG or a third party and complies with all applicable rules and regulations.



The current development plans for Cottonwood may anticipate the relocation of certain existing gathering lines or flowlines ("**Existing Pipelines**") to a designated easement corridor shown on Exhibit "B" as the "**Petroleum Pipeline Easement**". It is further anticipated that any additional pipelines, flowlines and gathering lines that may be required in the future ("**Future Pipelines**") may also need to be placed within, or relocated to the Petroleum Pipeline Easement. All such relocations shall be at the Surface Owner's cost and expense.

At such time as Surface Owner desires to have any Existing Pipelines or Future Pipelines relocated to the Petroleum Pipeline Easement, it shall give written notice to KMG who shall promptly prepare, or commission the preparation of, a cost estimate to accomplish the relocation. As soon as available, KMG will then provide the cost estimate to Surface Owner who will then have the opportunity to review same and make a final determination about whether it wishes to proceed with the relocation. If Surface Owner elects to have KMG effectuate the pipeline relocation, it shall tender the estimated costs of such to KMG together with its written request to commence the project as soon as reasonably practicable, or as otherwise requested by Surface Owner. If it has not already done so, Surface Owner shall also deliver to KMG an executed and acknowledged Pipeline Right of Way Grant on the form that is attached hereto as Exhibit "C" in order to convey the Petroleum Pipeline Easement lands as shown on Exhibit "B". The Petroleum Pipeline Easement shall be fifty feet (50') in width during construction, installation or relocation operations and otherwise reduced to thirty feet (30') in width for post-construction usage. KMG shall abandon all pipeline locations that will no longer be used due to any relocation but only after the completion of such relocations and after such time as Surface Owner has provided KMG with a new Pipeline Right of Way Grant if such relocation requires a new Petroleum Pipeline Easement. If an Existing Pipeline, prior to relocation, was granted by way of a recorded easement or right-of-way, such release of the abandoned portion shall also be recorded.

All relocated and Future Pipelines shall be located within the Petroleum Pipeline Easement unless otherwise agreed upon between Surface Owner and KMG, which agreement shall not be unreasonably withheld. KMG acknowledges that the Petroleum Pipeline Easement will be non-exclusive and agrees that it will not object to its concurrent use by other oil and gas operators or utilities, as Surface Owner may grant from time to time, so long as such other parties comply with KMG's pipeline guidelines, attached hereto as Exhibit "D". Notwithstanding the foregoing, Surface Owner shall not permit, nor shall it place any other utility or structure within ten feet horizontally or two feet vertically of any KMG pipeline with the exception that gravity flow utilities may be less than two feet vertically separated from any KMG pipeline. The Petroleum Pipeline Easement and Oil and Gas Operations Areas shall be depicted and labeled on all subdivision plats submitted to the City of Dacono.

If Surface Owner's development plans anticipate that roadways will or may in the future cross over Existing Pipelines, Surface Owner agrees to pay for the cost to have KMG sleeve any Existing Pipeline that is to be crossed by such roadways, such payment to be made in advance of the work and Surface Owner shall not permit any roadway crossing of any Existing Pipeline until the sleeving of the affected line has been completed.

KMG shall not, without the prior written consent of Surface Owner, have the right to lay additional flowlines or pipelines on the Property, outside of the Petroleum Pipeline Easement.



All flowlines and pipelines shall be buried to a depth of approximately 48 inches from the surface. Surface Owner shall maintain a minimum of 48 inches and not more than 72 inches of cover over all pipelines and flowlines during any of Surface Owner's operations on the Property. The construction and burying of additional flowlines, gathering lines and pipelines shall be at the sole cost and expense of KMG or its gas purchaser.

5. ACCESS.

Surface Owner shall provide KMG with continuous access to all of the Oil and Gas Operations Areas and the Petroleum Pipeline Easement. The access roads to be used by KMG will either be those roads that currently are in place or those that are anticipated to be constructed by Surface Owner at its sole cost and expense as part of Surface Owner's development of the Property. All access roads constructed shall be of sufficient scope to allow KMG to conduct its oil and gas operations and shall be at least 30 feet in width and built to withstand a minimum of 104,000 pounds and 26,000 pounds per axle. KMG agrees to access the Property according to the routes depicted and described on the attached Exhibit "B" once the streets are constructed by Surface Owner and Surface Owner provides KMG notice of such but KMG may continue to use its present access routes until that time and until receipt of such notice from Surface Owner. KMG shall abandon its present access routes once it receives notice that it may access the Property according to the routes constructed by Surface Owner as depicted on Exhibit B. Surface Owner shall have the right to relocate such access in the future at Surface Owner's cost and expense so long as KMG has uninterrupted access.

6. BATTERIES AND EQUIPMENT.

Unless the parties agree otherwise in writing, KMG shall have the right to locate, build, repair and maintain tanks, separators, dehydrators, small compressors (less than 15 horsepower per compressor) and other equipment reasonably appropriate for the operation and production of the Existing Well or any Future Wells only within the Oil and Gas Operations Areas in the locations shown on Exhibit B; provided, however, Surface Owner shall have the right to relocate all tanks and other production equipment at Surface Owner's sole cost and expense.

With respect to KMG's equipment and facilities other than flowlines or pipelines:

a. KMG shall install and maintain, at its sole cost and expense, all fences around the Existing Well and any Future Wells in compliance with the Rules and Regulations of the COGCC. The fence material may be upgraded at Surface Owner's option and expense, so long as the upgrade complies with COGCC rules and regulations;

b. KMG shall install and maintain, at its sole cost and expense, all gates and locks reasonably necessary for the security of any wells or facilities in the Oil and Gas Operations Areas. Such gates and locks shall be the standard gates and locks used by KMG;

c. KMG shall paint any production facilities for any wells, including wellhead guards, with paint of a color selected by the Surface Owner, provided that any additional cost of using the color is paid by Surface Owner and that it is in compliance with COGCC rules and regulations; and



d. Surface Owner shall not inhibit KMG's access to the Oil and Gas Operations Areas or inhibit KMG's operations within the Oil and Gas Operations Areas by landscaping or other improvements, unless as shown on Exhibit B or otherwise agreed upon between Surface Owner and KMG, which agreement shall not be unreasonably withheld.

7. NOTICE OF FUTURE OPERATIONS.

KMG shall provide at least seven (7) days prior written notice to Surface Owner of any operations in connection with the reworking, fracturing, deepening or recompletion operation on the Existing Well or any Future Wells; provided, however, that KMG shall provide at least thirty (30) days prior written notice to Surface Owner and/or any homeowner's association formed by Surface Owner that is associated with the Property upon the drilling of any Future Wells. Regardless of the foregoing notice requirements, KMG shall have immediate access to any of its facilities in the event of an emergency.

After receipt of the above notice, but not less than five (5) working days prior to KMG's mobilization on the applicable Oil and Gas Operations Areas, either KMG or Surface Owner may request an on-site meeting. The purpose of the meeting shall be to inform Surface Owner of the expected activity and to coordinate site access, hazards, barricades, restoration or any other issues that affect the use and safety of Surface Owner's development.

8. NOTICES TO HOMEOWNERS AND BUILDERS.

Surface Owner shall furnish all buyers of the Property from Surface Owner with a plat or map showing the Oil and Gas Operations Areas and the Petroleum Pipeline Easement. In addition, Surface Owner shall provide notice to all builders, homeowners, homeowner associations and other buyers of the Property from Surface Owner that:

a. There may be ongoing oil and gas operations and production in the Oil and Gas Operations Areas on the surface of the Property;

b. There are likely to be additional Future Wells drilled and oil and gas operations and production from the Oil and Gas Operations Areas that affect the surface of the Property;

c. Heavy equipment may be used by KMG from time to time for oil and gas production operations and that such operations may be conducted on a 24 hour basis;

d. Future purchasers of all or a portion of the Property, as successors in interest to Surface Owner, will be acquiring a proportionate interest in Surface Owner's rights under this Agreement and assuming those obligations undertaken by Surface Owner pursuant to this Agreement; and

e. Homeowner associations and buyers of individual lots or homes, as successors in interest to Surface Owner, will be acquiring a proportionate interest in Surface Owner's rights under this Agreement, and will be subject to the waivers contained in Sections 3, 9, and the covenants contained in Section 3 prohibiting the



location of any building or structure within the Oil and Gas Operations Areas or the Petroleum Pipeline Easement and waiving objection to any setback rules of the COGCC or any local jurisdiction.

9. DRILLING AND COMPLETION OPERATIONS.

KMG shall endeavor to diligently pursue any drilling operations to minimize the total time period and to avoid rig relocations or startup during the course of drilling. Surface Owner waives any objections to continuous (i.e., 24-hour) drilling operations.

10. GOVERNMENTAL PROCEEDINGS.

Surface Owner shall not oppose KMG in any agency or governmental proceedings, including but not limited to the COGCC, the City of Dacono or other governing body proceedings, related to KMG's operations on the Property, including but not limited to drilling, workovers, well deepenings and recompletions, provided that KMG's position in such proceedings is consistent with this Agreement.

11. 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;

b. Except as to claims arising out of pollution or environmental damage (which claims are governed by Section 12 below) or out of other provisions of this Agreement (which claims shall be governed by the terms of this Agreement), 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 Property, 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. Upon the assignment or conveyance of a party's entire interest in the Property, that party shall be released from its indemnification in Section 11.b. above, for all actions or occurrences happening after such assignment or conveyance.

12. ENVIRONMENTAL INDEMNITY.

The provisions of Section 11 above, except for Section 11.a., shall not apply to any environmental matters, which shall be governed exclusively by the following, subject to the limitations of Section 11.a. above:



a. "Environmental Claims" shall mean all Claims asserted by governmental bodies or other third parties for pollution or environmental damage of any kind, arising from operations on or ownership of the Property or ownership of the oil and gas leasehold interest, whichever is applicable, and all cleanup and remediation costs, fines and penalties associated therewith, including but not limited to any Claims arising from Environmental Laws or relating to asbestos or to naturally occurring radioactive material. Environmental Claims shall not include the costs of any remediation undertaken voluntarily by any party, unless such remediation is performed under the imminent threat of a Claim by a governmental body or other third party;

b. "Environmental Laws" shall mean any laws, regulations, rules, ordinances, or order of any governmental authority(ies), which relate to or otherwise impose liability, obligation, or standards with respect to pollution or the protection of the environment, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.), the Clean Water Act (33 U.S.C. §§ 466 et seq.), the Safe Drinking Water Act (14 U.S.C. §§ 1401-1450), the Hazardous Material Transportation Act (49 U.S.C. §§ 1801 et seq.), the Clean Air Act, and the Toxic Substances Control Act (15 U.S.C. §§ 2601-2629); and

c. Environmental Indemnification. KMG shall protect, indemnify, and hold harmless Surface Owner, homeowners association and any lot owner who purchases a lot from Surface Owner from any Environmental Claims relating to the Property or oil and gas leasehold thereunder that arise out of KMG's ownership and operation of the Oil and Gas Operations Areas and its ownership and operation of its pipeline easement or rights-of-way on the Property. Surface Owner shall fully protect, defend, indemnify and hold harmless KMG from any and all Environmental Claims relating to the Property that arise out of Surface Owner's development of the Property.

13. EXCLUSION FROM INDEMNITIES.

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.

14. NOTICE OF CLAIM FOR INDEMNIFICATION.

If a Claim is asserted against a party for which the other party would be liable under the provisions of Section 11 or 12 above, 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.



15. REPRESENTATIONS.

Each party represents that it has the full right and authority to enter into this Agreement. KMG does not represent that it has rights to settle matters for all of the mineral owners or any other lessees in the Property and this Agreement shall only apply to and bind the KMG leasehold interest in the property.

16. SUCCESSORS.

The terms, covenants, and conditions hereof shall be binding upon and shall inure to the benefit of the parties and their respective heirs, devisees, executors, administrators, successors and assigns; provided, as to KMG, successors and assigns shall be deemed to be limited to lessees under the oil and gas leases which KMG owns.

17. TERM.

This Agreement shall become effective when it is fully executed and shall remain in full force and effect until KMG's leasehold estate expires or is terminated, and KMG has plugged and abandoned all wells owned all or in part by KMG and complied with the requirements of all applicable oil and gas leases pertaining to removal of equipment, reclamation, cleanup and all other applicable provisions of the leases and existing laws and regulations.

18. NOTICES.

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 or HSG:

Kerr McGee Oil & Gas Onshore LP
1999 Broadway, Suite 3700
Denver, Colorado 80202
Attention: Director of Land Denver Basin

If to Surface Owner:

Dacono Cottonwood, Ltd.
14875 Landmark Blvd.
Suite 306
Dallas, TX 75240

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



19. RECORDING.

This Agreement, any amendment hereto shall be recorded by KMG, which shall provide the other parties with a copy showing the recording information as soon as practicable thereafter.

20. SURFACE DAMAGES.

Surface Owner hereby waives all surface damage payments pursuant to any COGCC or local regulation, state statute, common law or prior agreement, for each and every well that is drilled, tank battery and emissions control devices located on the Property within the Oil and Gas Operations Areas and also including but not limited to any access road, flowline, or pipeline constructed within the Petroleum Pipeline Easement. KMG may provide a copy of this Agreement to the COGCC as evidence of this waiver.

21. ARBITRATION.

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.

22. APPLICABLE LAW.

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.

23. ENTIRE AGREEMENT.

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.

24. EXECUTION AND BINDING EFFECT.

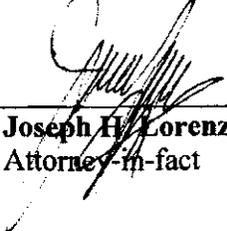
This Agreement may be executed in any number of counterparts each of which shall be deemed an original instrument but all of which together shall constitute one and the same instrument, and shall be binding upon and inure to the benefit of the parties, and each of their respective heirs, executors, administrators, successors and assigns and is executed by the parties as of the Effective Date set forth above.



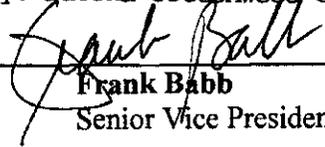
3440211 12/06/2006 04:27P Weld County, CO
10 of 25 R 126.00 D 0.00 Steve Moreno Clerk & Recorder

The parties have executed this Agreement on the day and year first above written.

KERR-McGEE OIL & GAS ONSHORE LP

By: 
Joseph H. Lorenzo
Attorney-in-fact

SURFACE OWNER: DACONO COTTONWOOD, LTD.
a Texas Limited Partnership
By: Dacono Cottonwood GP, Inc., its General Partner

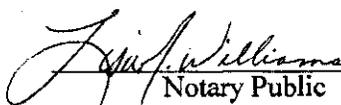

Frank Babb
Senior Vice President

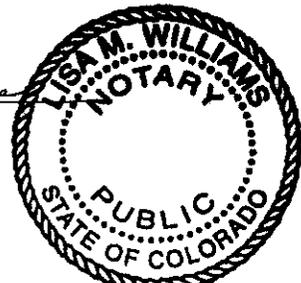
ACKNOWLEDGMENTS

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

The foregoing instrument was acknowledged before me this 17th day of October, 2006, by Joseph H. Lorenzo, as Attorney-in Fact of Kerr McGee Oil & Gas Onshore LP, on behalf of such corporation.

Witness my hand and official seal.


Notary Public



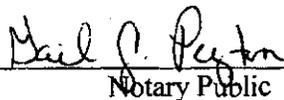
My Commission Expires: 3-15-2008

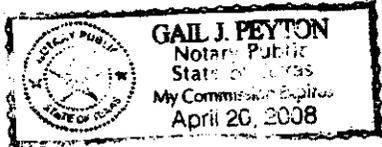
My Commission Expires 03/15/2008

STATE OF Texas)
) ss.
COUNTY OF Dallas)

The foregoing instrument was acknowledged before me this 17th day of November 2006, by Frank Babb, as Senior Vice President on behalf of Dacono Cottonwood, Ltd.

Witness my hand and official seal.


Notary Public



My Commission Expires: 4/20/2008



3440211 12/06/2006 04:27P Weld County, CO
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December 6, 2005
071918.100.1.1001

Exhibit A
Property Description

West Parcel

A parcel of land lying in the Southeast Quarter of Section 12, Township 1 North, Range 68 West of the 6th Principal Meridian, City of Dacono, County of Weld, State of Colorado being more particularly described as follows:

COMMENCING at the South Quarter corner of said Section 12 (a found 2" aluminum cap stamped "LS 29425 2001");

WHENCE the Center Quarter corner of said Section 12 (a found 3 1/4" aluminum cap stamped "LS 30829 2002") bears N00°20'19"W a distance of 2650.44 feet;

THENCE N80°41'41"E a distance of 198.83 feet to the POINT OF BEGINNING;

THENCE N06°27'03"E a distance of 2635.95 feet;

THENCE N89°53'07"E along the northerly line of the Southeast Quarter of said Section 12 a distance of 985.20 feet;

THENCE the following twenty-three (23) courses along the westerly line of the Farmers Reservoir and Irrigation Company ditch right of way as recorded in Book 310 at Page 377 recorded in the Weld County Clerk & Recorder's Office:

1. S67°46'48"W a distance of 96.20 feet;
2. THENCE S63°27'42"W a distance of 48.16 feet;
3. THENCE S55°45'09"W a distance of 47.64 feet;
4. THENCE S50°29'24"W a distance of 147.12 feet;
5. THENCE S47°25'04"W a distance of 71.84 feet;
6. THENCE S43°27'27"W a distance of 73.73 feet;
7. THENCE S36°12'10"W a distance of 47.49 feet;
8. THENCE S27°38'42"W a distance of 47.69 feet;
9. THENCE S20°35'31"W a distance of 45.62 feet;
10. THENCE S14°27'06"W a distance of 48.78 feet;
11. THENCE S09°36'40"W a distance of 42.94 feet;
12. THENCE S00°46'20"W a distance of 83.96 feet;
13. THENCE S09°44'32"E a distance of 105.01 feet;
14. THENCE S11°46'37"E a distance of 433.21 feet;
15. THENCE S07°48'12"E a distance of 92.94 feet;
16. THENCE S23°02'33"W a distance of 42.70 feet;
17. THENCE S49°53'25"W a distance of 45.68 feet;
18. THENCE S63°09'58"W non-tangent with the following described curve a distance of 108.40 feet;
19. THENCE along the arc of a curve to the left, having a central angle of 37°21'44", a radius of 245.55 feet, a chord bearing of S42°53'09"W a distance of 157.30 feet, and an arc distance of 160.12 feet;
20. THENCE S26°13'39"W non-tangent with the last and following described curves a distance of 100.04 feet;



- 21. THENCE along the arc of a curve to the left, having a central angle of 35°29'06", a radius of 519.46 feet, a chord bearing of S09°51'17"W a distance of 316.60 feet, and an arc distance of 321.72 feet;
 - 22. THENCE S09°32'42"E non-tangent with the last described curve a distance of 321.02 feet;
 - 23. THENCE S01°44'09"W a distance of 466.69 feet;
- THENCE S89°22'22"W along a line being 30.00 feet northerly of and parallel with the southerly line of the Southeast Quarter of said Section 12 a distance of 610.13 feet to the POINT OF BEGINNING.

Containing 1,592,178 square feet, (36.551 Acres), more or less.

East Parcel

A parcel of land lying in the Southeast Quarter of Section 12, Township 1 North, Range 68 West of the 6th Principal Meridian, City of Dacono, County of Weld, State of Colorado being more particularly described as follows:

COMMENCING at the South Quarter corner of said Section 12 (a found 2" aluminum cap stamped "LS 29425 2001");
 WHENCE the Center Quarter corner of said Section 12 (a found 3 ¼" aluminum cap stamped "LS 30829 2002") bears N00°20'19"W a distance of 2650.44 feet;

THENCE N87°26'06"E a distance of 887.26 feet to the POINT OF BEGINNING;

THENCE the following twenty-three (23) courses along the easterly line of the Farmers Reservoir and Irrigation Company ditch right of way as recorded in Book 310 at Page 377 recorded in the Weld County Clerk & Recorder's Office:

- 1. N01°44'09"E a distance of 471.49 feet;
- 2. THENCE N09°32'42"W non-tangent with the following described curve a distance of 328.73 feet;
- 3. THENCE along the arc of a curve to the right, having a central angle of 35°18'10", a radius of 439.46 feet, a chord bearing of N10°03'56"E a distance of 266.51 feet, and an arc distance of 270.77 feet;
- 4. THENCE N26°13'39"E non-tangent with the last and following described curves a distance of 102.59 feet;
- 5. THENCE along the arc of a curve to the right, having a central angle of 37°01'47", a radius of 165.55 feet, a chord bearing of N42°16'44"E a distance of 105.14 feet, and an arc distance of 106.99 feet;
- 6. THENCE N63°09'58"E tangent with the last described curve a distance of 117.71 feet;
- 7. THENCE N49°53'25"E a distance of 74.09 feet;
- 8. THENCE N23°02'33"E a distance of 83.86 feet;
- 9. THENCE N07°48'12"W a distance of 117.79 feet;
- 10. THENCE N11°46'37"W a distance of 434.57 feet;
- 11. THENCE N09°44'32"W a distance of 96.23 feet;
- 12. THENCE N00°46'20"E a distance of 70.42 feet;
- 13. THENCE N09°36'40"E a distance of 33.37 feet;
- 14. THENCE N14°27'06"E a distance of 41.10 feet;
- 15. THENCE N20°35'31"E a distance of 36.40 feet;
- 16. THENCE N27°38'42"E a distance of 36.78 feet;

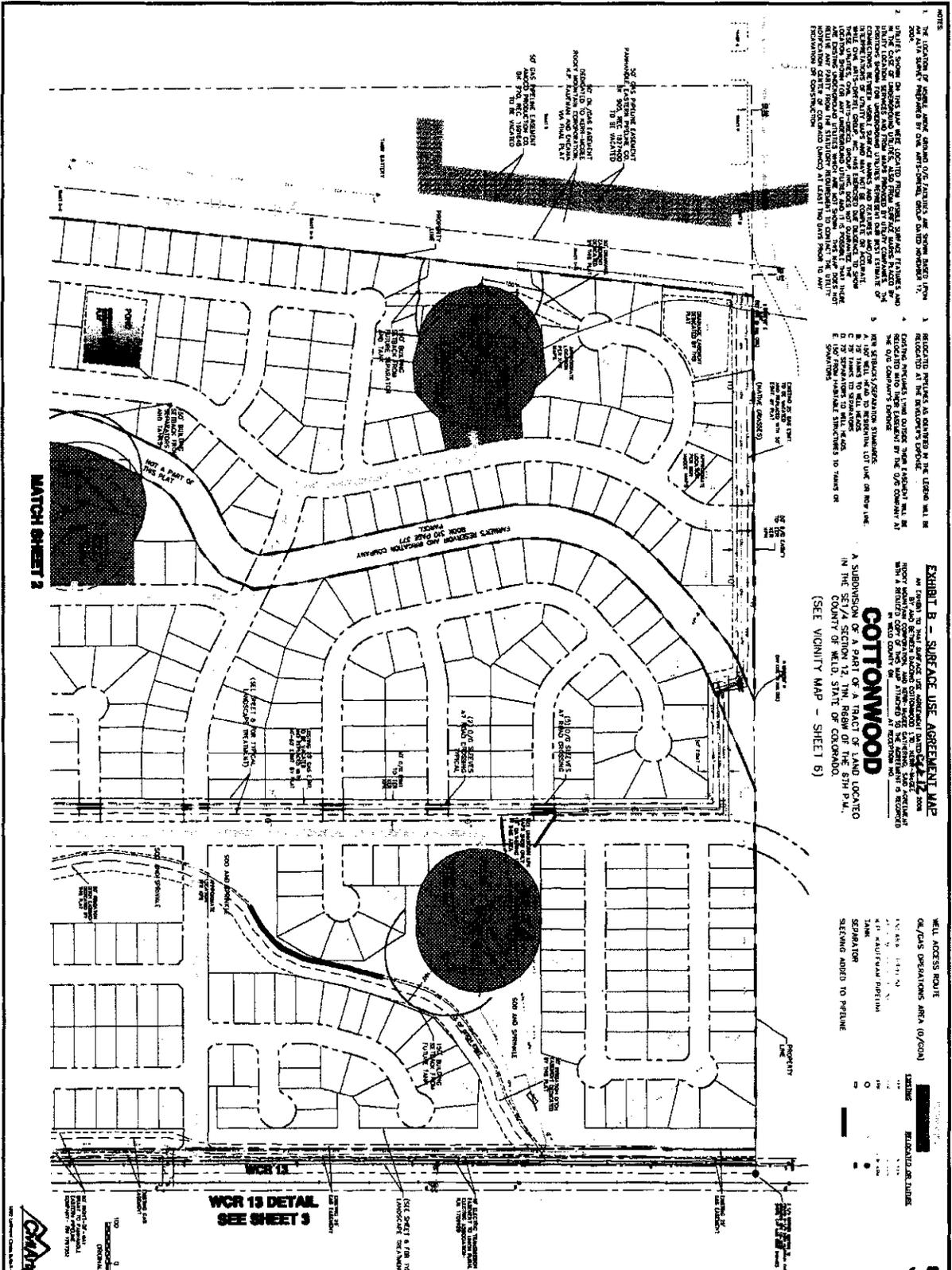


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17. THENCE N36°12'10"E a distance of 36.43 feet;
 18. THENCE N43°27'27"E a distance of 65.90 feet;
 19. THENCE N47°25'04"E a distance of 66.93 feet;
 20. THENCE N50°29'24"E a distance of 141.30 feet;
 21. THENCE N55°45'09"E a distance of 38.57 feet;
 22. THENCE N63°27'42"E a distance of 39.75 feet;
 23. THENCE N67°46'48"E a distance of 290.26 feet;
- THENCE N89°53'07"E along the northerly line of the Southeast Quarter of said Section 12 a distance of 915.17 feet;
- THENCE S00°03'17"W along a line being 30.00 feet westerly of and parallel with the easterly line of the Southeast Quarter of said Section 12 a distance of 2597.14 feet;
- THENCE S89°22'22"W along a line being 30.00 feet northerly of and parallel with the southerly line of the Southeast Quarter of said Section 12 a distance of 1716.71 feet to the POINT OF BEGINNING.

Containing 4,055,760 square feet, (93.107 Acres), more or less.

Containing 5,647,938 total square feet, (129.658 total Acres), more or less.



1. THE LOCATION OF ALL UTILITIES ARE SHOWN AS PER THE RECORD DRAWINGS AND AS SHOWN ON THE RECORD DRAWINGS. THE LOCATION OF ALL UTILITIES ARE SHOWN AS PER THE RECORD DRAWINGS AND AS SHOWN ON THE RECORD DRAWINGS.
2. THE LOCATION OF ALL UTILITIES ARE SHOWN AS PER THE RECORD DRAWINGS AND AS SHOWN ON THE RECORD DRAWINGS.
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4. THE LOCATION OF ALL UTILITIES ARE SHOWN AS PER THE RECORD DRAWINGS AND AS SHOWN ON THE RECORD DRAWINGS.

EXHIBIT B - SURFACE USE AGREEMENT MAP
 A SUBDIVISION OF A PART OF A TRACT OF LAND LOCATED IN THE SE 1/4 SECTION 12, T1N, R10W OF THE 8TH P.M., COUNTY OF WILD, STATE OF COLORADO.
 (SEE VICINITY MAP - SHEET 5)

WELL ACCESS ROUTE
 OLD GAS OPERATIONS AREA (O/GA)
 1" = 100' (SEE SHEET 5)
 1" = 100' (SEE SHEET 5)
 1" = 100' (SEE SHEET 5)
 1" = 100' (SEE SHEET 5)

LEGEND
 BOUNDARY OF LINES
 1" = 100' (SEE SHEET 5)
 1" = 100' (SEE SHEET 5)
 1" = 100' (SEE SHEET 5)
 1" = 100' (SEE SHEET 5)

SHEET 1 OF 6
JUNE 21, 2006

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WCR 13 DETAIL
 SEE SHEET 3

Match Sheet 2

Scale:
 ORIGINAL SCALE 1" = 100'

North Arrow

NOTES

1. THE LOCATION OF WELLS, ABOVE SHOWN ON 1/2" SCALE MAP OF SHOW, IS SUBJECT TO THE APPROVAL OF THE STATE ENGINEER AND THE STATE WATER CONTROL BOARD.
2. THE LOCATION OF WELLS, ABOVE SHOWN ON 1/2" SCALE MAP OF SHOW, IS SUBJECT TO THE APPROVAL OF THE STATE ENGINEER AND THE STATE WATER CONTROL BOARD.
3. THE LOCATION OF WELLS, ABOVE SHOWN ON 1/2" SCALE MAP OF SHOW, IS SUBJECT TO THE APPROVAL OF THE STATE ENGINEER AND THE STATE WATER CONTROL BOARD.
4. THE LOCATION OF WELLS, ABOVE SHOWN ON 1/2" SCALE MAP OF SHOW, IS SUBJECT TO THE APPROVAL OF THE STATE ENGINEER AND THE STATE WATER CONTROL BOARD.
5. THE LOCATION OF WELLS, ABOVE SHOWN ON 1/2" SCALE MAP OF SHOW, IS SUBJECT TO THE APPROVAL OF THE STATE ENGINEER AND THE STATE WATER CONTROL BOARD.

EXHIBIT B - SURFACE USE AGREEMENT MAP

AS SHOWN ON THIS MAP ARE THE SURFACE USE AGREEMENT MAPS FOR THE COTTONWOOD SUBDIVISION, AS SHOWN ON THE 1/2" SCALE MAP OF SHOW, IS SUBJECT TO THE APPROVAL OF THE STATE ENGINEER AND THE STATE WATER CONTROL BOARD.

A SUBDIVISION OF A PART OF A TRACT OF LAND LOCATED IN THE SE 1/4 SECTION 12, T4N, R6W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO.

(SEE VICINITY MAP - SHEET 6)

WELL ACCESS ROUTE

ON/OAS OPERATIONS AREA (O/O/OA)

1. 1/2" SCALE MAP OF SHOW

2. 1/2" SCALE MAP OF SHOW

3. 1/2" SCALE MAP OF SHOW

4. 1/2" SCALE MAP OF SHOW

5. 1/2" SCALE MAP OF SHOW

WELL ACCESS ROUTE

ON/OAS OPERATIONS AREA (O/O/OA)

1. 1/2" SCALE MAP OF SHOW

2. 1/2" SCALE MAP OF SHOW

3. 1/2" SCALE MAP OF SHOW

4. 1/2" SCALE MAP OF SHOW

5. 1/2" SCALE MAP OF SHOW

WELL ACCESS ROUTE

ON/OAS OPERATIONS AREA (O/O/OA)

1. 1/2" SCALE MAP OF SHOW

2. 1/2" SCALE MAP OF SHOW

3. 1/2" SCALE MAP OF SHOW

4. 1/2" SCALE MAP OF SHOW

5. 1/2" SCALE MAP OF SHOW

WELL ACCESS ROUTE

ON/OAS OPERATIONS AREA (O/O/OA)

1. 1/2" SCALE MAP OF SHOW

2. 1/2" SCALE MAP OF SHOW

3. 1/2" SCALE MAP OF SHOW

4. 1/2" SCALE MAP OF SHOW

5. 1/2" SCALE MAP OF SHOW

WELL ACCESS ROUTE

ON/OAS OPERATIONS AREA (O/O/OA)

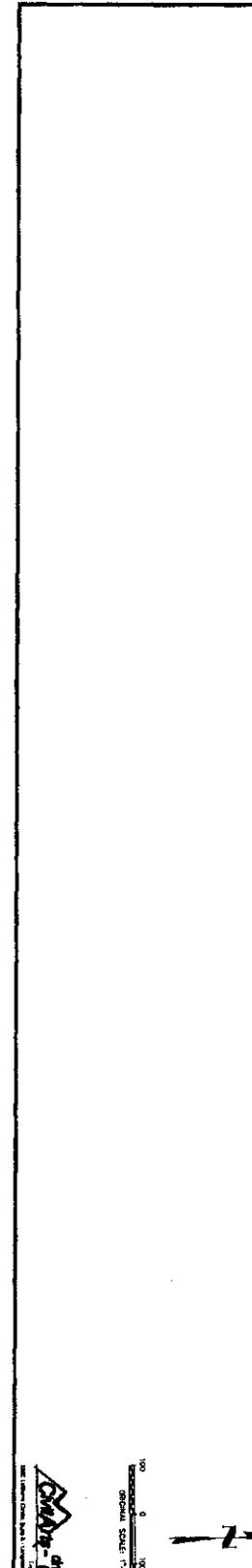
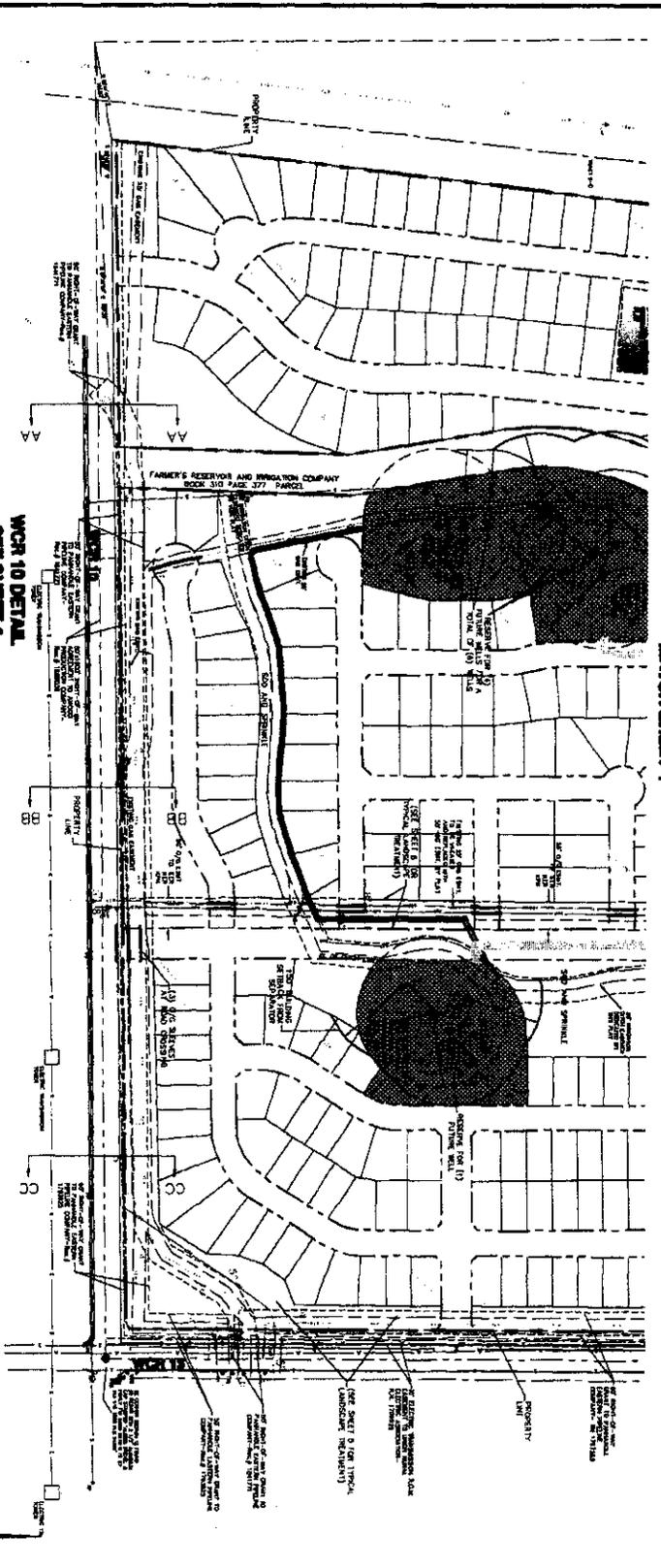
1. 1/2" SCALE MAP OF SHOW

2. 1/2" SCALE MAP OF SHOW

3. 1/2" SCALE MAP OF SHOW

4. 1/2" SCALE MAP OF SHOW

5. 1/2" SCALE MAP OF SHOW



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DATE: 21 JUN 2006

TIME: 11:48 AM

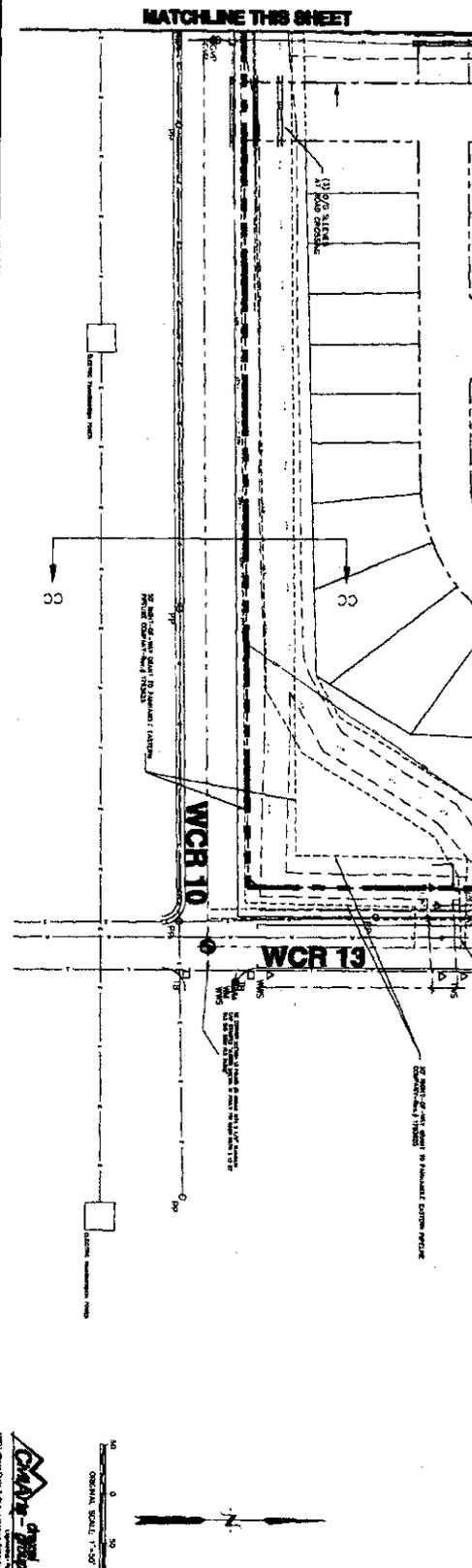
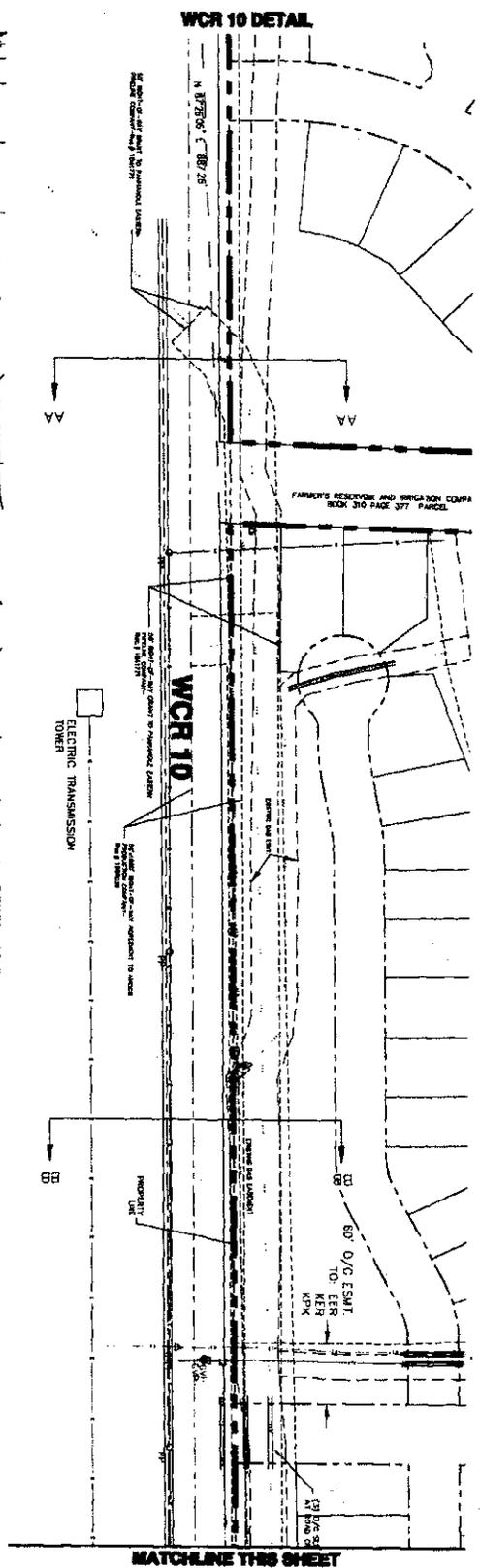
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SHEET 4 OF 6
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- NOTES
1. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 2. ALL EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE TO BE MAINTAINED AND KEPT OPEN AT ALL TIMES.
 3. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 4. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 5. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 6. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 7. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 8. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 9. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.
 10. THE LOCATION OF EXISTING DRAINAGE DITCHES AND FLOODWAYS ARE SHOWN BASED UPON RECORD DRAWINGS AND FIELD SURVEY DATA.

EXHIBIT B - SURFACE USE AGREEMENT MAP
 A SUBDIVISION OF A PART OF A TRACT OF LAND LOCATED IN THE SOUTHWEST CORNER OF THE 6TH P.M. IN THE COUNTY OF WELD, STATE OF COLORADO.
 (SEE VICINITY MAP - SHEET 6)

WELL ACCESS ROUTE
 OIL/GAS OPERATIONS AREA (O/GOA)
 LEGEND
 EXISTING
 PROPOSED
 SEPARATOR
 SLEEPING ADDED TO PRELIM



10 0 50 100
 ORIGINAL SCALE 1"=50'
Cambridge
 10000 Cambridge Drive, Suite 100, Denver, CO 80231
 (303) 751-1100

EXHIBIT C

Attached to and made a part of that certain Surface Use Agreement between Dacono Cottonwood Ltd. and Kerr-McGee Oil & Gas Onshore LP, dated the 12th of October, 2006

RIGHT-OF-WAY GRANT

THIS RIGHT-OF-WAY GRANT ("Grant) is made this _____ day of _____, 2006, from Dacono Cottonwood Ltd., whose address is, 14875 Landmark Blvd., Suite 306, Dallas, Texas 75240 ("Grantor"), to Kerr-McGee Gathering LLC, a Colorado Limited Liability Company, whose address is 1999 Broadway, Suite 3700, Denver, Colorado 80202 ("Grantee"). The parties agree as follows:

For and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, conveys and warrants unto Grantee, its successors and assigns, a perpetual right-of-way(s) and non-exclusive easement(s) to survey, construct, maintain, inspect, operate, repair, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove, at Grantee's election, pipelines and all appurtenances, below and/or above ground, including but not limited to launchers and receivers, convenient for the transportation or transmission of oil, gas, petroleum products, water, hydrocarbons and any other substances, whether fluid, solid or gaseous, and any products, derivatives, combinations or mixtures of any of the foregoing, in, on, over, under, or through the lands situated in Weld County, State of Colorado, being described as follows:

TOWNSHIP 1 NORTH, RANGE 68 WEST, 6TH PM
Sections 12: SE/4

The specific route and course of the right-of-way(s) and easement(s) conveyed hereby ("Right-of-Way Lands") is more particularly described on Exhibit "A" attached hereto and made a part hereof. The width of the Right-of-Way Lands during construction shall be fifty feet (50'), and subsequent to construction shall be thirty feet (30').

Grantor represents and warrants to Grantee that Grantors are the sole owner in fee simple of the Right-of-Way Lands and have full right, power and authority to make this Grant.

Grantee shall lay all pipe at a depth of not less than 48 inches. Grantee shall repair and/or restore any fence on or adjacent to the Right-of-Way Lands removed or severed by Grantee in the course of the operations provided for in this Grant. If necessary to prevent the escape of Grantor's livestock, Grantee shall construct temporary gates or fences.

Grantee shall have all rights, privileges and benefits necessary or convenient for the full use and enjoyment of this Grant, including but not limited to, the right of ingress and egress over and across Grantor's lands lying adjacent to the Right-of-Way Lands for any and all purposes necessary and incidental to exercising Grantee's rights hereunder. Grantors agree not to build, create, construct or permit to be built, created or constructed, any obstruction, building, reservoir, engineering works or other structures or improvements over, under, on or across the Right-of-Way Lands, except as provided herein, without prior written consent of Grantee, which consent shall not be unreasonably withheld. Other utilities may be placed in the Right-of-Way Lands parallel to Grantee's pipeline so long as the horizontal separation from the centerline of Grantee's pipeline is at least 10 feet (10'). Grantor retains the right to landscape over the Right-of-Way Lands with grass, shallow root shrubs and gravel paths. Grantee shall not be liable for damage to landscaping or sprinkler systems placed in the Right-of-Way Lands. Grantor shall have the right to cross the Right-of-Way Lands with roads, utilities and fences placed at substantially right angles.

Grantee shall be obligated to pay for, repair, replace or otherwise compensate Grantors for any damages resulting from Grantee's activities and operations on the Right-of-Way Lands; and, Grantors shall pay for, reimburse, indemnify and hold Grantee harmless from any and all claims or damages resulting from Grantor's activities on the Right-of-Way Lands. Grantors shall have the right to use and enjoy the Right-of-Way Lands, subject to the rights herein granted. This Grant cannot be modified, except in writing signed by all parties hereto.

The rights granted herein may be assigned in whole or in part, and the terms, conditions, and provisions of this Grant are a covenant running with the land and shall extend to and be binding upon the successors, and assigns of Grantor and Grantee.

Grantee agrees to level and restore any lands that may have excessive settling and sufficiently compact the soil within a reasonable period of time after completion of construction.

This Grant may be executed in counterparts each of which shall be considered one and the same agreement.


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General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP Pipelines and Related Facilities

EXHIBIT D

(Attached to and made a part of that certain Surface Use Agreement between Dacono Cottonwood Ltd.
and Kerr-McGee Oil & Gas Onshore LP dated October 12, 2006)

This list of design, construction and contractor requirements, including but not limited to the following, is for the design and installation of foreign utilities or improvements on Kerr McGee Gathering LLC (KMG) right-of-way (ROW). These are not intended to, nor do they waive or modify any rights KMG may have under existing easements or ROW agreements. For information regarding KMG's rights and requirements as they pertain to the existing easements, please reference existing easements and amendments documents. This list of requirements is applicable for KMG facilities on easements and in road rights of ways only. Encroachments on fee property should be referred to the Land & ROW Department. Any reference to KMG in the below requirements is meant to include and apply to any Kerr McGee entity.

Design

- KMG shall be provided sufficient prior notice of planned activities involving excavation, blasting, or any type of construction on KMG's ROW or near its facilities. This is to determine and resolve any location, grade or encroachment problems and allow for the protection of KMG's facilities and the general public. This prior notification is to be made **before** the actual work is to take place.
- The encroaching entity shall provide KMG with a set of drawings for review and a set of final construction drawings showing all aspects of the proposed facilities in the vicinity of KMG's ROW. The encroaching entity shall also provide a set of "as-built drawings" and submit to KMG, showing the facilities in the vicinity of KMG's ROW upon completion of the work.
- Only facilities shown on drawings reviewed by KMG will be approved for installation on KMG's ROW. All drawing revisions that affect facilities proposed to be placed on KMG's ROW must be approved by KMG in writing.
- KMG shall approve the design of all permanent road crossings.
- Any repair to surface facilities following future pipeline maintenance or repair work by KMG on it's "prior rights" ROW will be at the expense of the developer or landowner. In addition, any repair to surface facilities following future pipeline maintenance or repair work by KMG on replacement ROW granted to relocate KMG facilities will also be done at the expense of the developer or landowner unless expressly addressed in surface use agreements and approved in writing by KMG.
- The depth of cover over the KMG pipelines shall not be increased or reduced nor surface modified for drainage without KMG's written approval.
- Construction of any permanent structure within KMG pipeline easement is not permitted without written approval by KMG.
- Planting of shrubs and trees is not permitted on KMG pipeline easement without written approval by KMG.
- Irrigation equipment i.e. backflow prevent devices, meters, valves, valve boxes, etc. shall not be located on KMG easement without written approval by KMG.
- Foreign utility installations, IE, distribution gas, oil and gas gathering, water, electric, telephone, cable and sewer lines, etc., may cross perpendicular to KMG's pipeline within the ROW, provided that a minimum of eighteen inches (18") of vertical clearance is maintained between KMG pipeline(s) and the foreign utility. Any installation by a foreign utility with less than 18" of vertical separation is not allowed without written approval by KMG. In no case will vertical separation be less than 12" whether written or not. Constant line elevations must be maintained across KMG's entire ROW width, gravity drain lines are the only exception and must be approved in writing. Foreign line crossings below the KMG pipeline must be evaluated by KMG to ensure that a significant length of the KMG line is not exposed and unsupported during construction. Foreign line crossings above the KMG pipeline with less than 18" of clearance must be evaluated by KMG to ensure that additional support is not necessary to prevent settling on top of the KMG natural gas pipeline. A KMG representative must be on site



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General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP Pipelines and Related Facilities

during any crossing activities to verify clearance depths and to assure the integrity and support of the KMG facility. All installations of foreign crossings done by boring and or jacking require the KMG facility to be exposed to verify clearances.

- Foreign utilities shall not run parallel to KMG pipelines within the KMG easement without written permission by KMG. A minimum of 10.0 feet of horizontal separation must be maintained in parallel installations whether the foreign utility is placed within the KMG easement or adjacent to the KMG easement. Any deviation from the 10.0' horizontal requirement must be approved in writing by KMG and an "as built survey" provided to KMG after installation.
- The foreign utility should be advised that KMG maintains cathodic protection on its pipelines and facilities. The foreign utility must coordinate their cathodic protection system with KMG's. At the request of KMG, foreign utilities shall install (or allow to be installed) cathodic protection test leads at all crossings for the purposes of monitoring cathodic protection interference. The KMG CP technician and the foreign utility CP technician shall perform post construction CP interference testing. Interference issues shall be resolved by mutual agreement between foreign utility and KMG. All costs associated with the correction of cathodic protection interference issues on KMG pipelines as a result of the foreign utility crossing shall be borne by the foreign utility for a period of one year from date the foreign utility is put in service.
- The developer shall understand that KMG whether specifically required per federal law, or by company standard, will mark the routing of its underground facilities with aboveground pipeline markers and test leads and maintain those markers and test leads. Markers will be installed at every point the pipeline route changes direction and adequate markers will be installed on straight sections of pipeline to insure, in the sole opinion of KMG, the safety of the public, contractor, KMG personnel and KMG facilities.
- On all foreign utility crossings and / or encroachments, metallic foreign lines shall be coated with a suitable pipe coating for a distance of at least 10 feet on either side of the crossing.
- AC Electrical lines must be installed in conduit and properly insulated.
- On all foreign pipelines, DOT approved pipeline markers shall be installed so as to indicate the route of the foreign pipeline across the KMG ROW.
- No power poles, light standards, etc. shall be installed in the KMG easement without written approval by KMG.
- KMG installs above ground appurtenances at various locations that are used in the operation of its facilities. Kerr McGee will install protective enclosures at the above ground appurtenances to protect them from outside damage. The design and placement of these above ground appurtenances and protective enclosures is done at KMG's sole discretion, and may exceed any regulatory requirements.

Construction

- If KMG will be relocating KMG facilities for any entity, grading in the new KMG ROW shall be +/- 6 inches before KMG will mobilize to complete the relocation. Final cover after the completion of the project will not be less than 48" nor more than 72". All cover that exceeds 72" or less than 48" will be approved in writing by KMG. Cover during all construction activities will NEVER be less than 36" unless approved in writing and a KMG representative is on site during the time cover is reduced.
- The entity requesting relocation shall survey top of pipe after installation but before backfill to determine proper final elevation of KMG facilities. The entity requesting relocation is solely responsible for the final depth of cover over the relocated KMG facility. Any deviation from cover requirements as outlined above will be corrected at the sole expense of the entity requesting relocation.
- Contractors shall be advised of KMG's requirements and be contractually obligated to comply.
- The continued integrity of KMG's pipelines and the safety of all individuals in the area of proposed work near KMG's facilities are of the utmost importance. Therefore, contractor must meet with KMG representatives prior to construction to provide and receive notification listings for appropriate area operations and emergency personnel. **KMG's on-site**



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representative will require discontinuation of any work that, in his or her opinion, endangers the operations or safety of personnel, pipelines or facilities.

- The Contractor must expose all KMG pipelines prior to crossing to determine the exact alignment and depth of the lines. A KMG representative must be present.
- The use of probing rods for pipeline locating shall be performed by KMG representatives only, to prevent unnecessary damage to the pipeline coating. A KMG representative shall do all line locating.
- Notification shall be given to KMG at least 72 hours before start of construction. A schedule of activities for the duration of the project must be made available at that time to facilitate the scheduling of KMG's work site representative. Any Contractor schedule changes shall be provided to KMG immediately.
- Heavy equipment will not be allowed to operate directly over KMG pipelines or in KMG ROW unless written approval is obtained from KMG. Heavy equipment shall only be allowed to cross KMG pipelines at locations designated by KMG. Haul roads will be constructed at all crossings. The haul roads will be constructed using lightweight equipment. The existing depth of cover over the pipeline must be verified. Cover will be added such that a total of 8' of fill exists over the pipeline and extends a minimum of 10' on each side of the pipeline. Depth of cover will then taper as required for equipment access. Steel plates may be used for load dissipation only if approved in writing by KMG.
- Contractor shall comply with all precautionary measures required by KMG, at its sole discretion to protect its pipelines. When inclement weather exists, provisions must be made to compensate for soil displacement due to subsidence of tires.
- Excavating or grading which might result in erosion or which could render the KMG ROW inaccessible shall not be permitted unless the contractor agrees to restore the area to its original condition and provide protection to KMG's facility. At no time will cover be reduced to less than 36" without written approval by KMG and a KMG representative on site.
- A KMG representative shall be on-site to monitor any construction activities within twenty-five (25) feet of a KMG pipeline or aboveground appurtenance. The contractor shall not work within this distance without a KMG representative being on site. Contractor shall use extreme caution and take any appropriate measures to protect KMG facilities.
- Ripping is only allowed when the position of the pipe is known and not within ten (10) feet of KMG facility. KMG personnel must be present.
- Temporary support of any exposed KMG pipeline by Contractor may be necessary if required by KMG's on-site representative. Backfill below the exposed lines and 12" above the lines shall be replaced with sand or other selected material as approved by KMG's on-site representative and thoroughly compacted in 12" lifts to 95% of standard proctor dry density minimum or as approved by KMG's on-site representative. This is to adequately protect against stresses that may be caused by the settling of the pipeline.
- No blasting shall be allowed within 1000 feet of KMG's facilities unless blasting notification is given to KMG including complete Blasting Plan Data. A pre-blast meeting shall be conducted by the organization responsible for blasting.

KMG shall be indemnified and held harmless from any loss, cost of liability for personal injuries received, death caused or property damage suffered or sustained by any person resulting from any blasting operations undertaken within 500 feet of its facilities. The organization responsible for blasting shall be liable for any and all damages caused to KMG's facilities as a result of their activities whether or not KMG representatives are present. KMG shall have a signed and executed Blasting Indemnification Agreement before authorized permission to blast can be given.

No blasting shall be allowed within 200 feet of KMG's facilities unless blasting notification is given to KMG a minimum of one week before blasting. The organization responsible for blasting must complete Blasting Plan Data. KMG shall review and analyze the blasting methods. A written blasting plan shall be provided by the organization responsible for blasting and agreed to in writing by KMG. A written emergency plan shall be provided by the organization responsible for blasting.



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**General Guidelines for Design and Construction Activities On or Near
 Kerr- McGee Gathering LLC and Kerr - McGee Oil & Gas Onshore LP
 Pipelines and Related Facilities**

KMG shall have a signed and executed Blasting Indemnification Agreement before authorized permission to blast can be given. A pre-blast meeting shall be conducted by the organization responsible for blasting.

- Any contact with any KMG facility, pipeline, valve set, etc. shall be reported immediately to KMG. If repairs to the pipe are necessary, they will be made and inspected before the section is re-coated and the line is back-filled.
- KMG personnel shall install all test leads on KMG facilities.

Local Kerr-McGee Gathering LLC Representation:

Manager of Construction & Facilities Engineering:	Kevin R. Osif, P.E.	Phone: 303 655 - 4307
Facilities Engineer:	Joseph E. Sanchez, P.E.	Phone: 303 655 - 4319
Foreman 1:	James Phillips	Phone: 303 655 - 4343
Foreman 1:	Rick Noffsinger	Phone: 303-655 - 4326

Emergency Contacts:

On call supervisor	Phone: 303-559 - 4001
Kerr McGee 24 hour emergency number	Phone: 303-659 - 5922
One Call Emergency	Phone: 800-922 -1987

FIRST AMENDMENT TO SURFACE USE AGREEMENT

This First Amendment to Surface Use Agreement ("First Amendment") is dated and made effective this 12th day of September, 2008 and is by and between Kerr-McGee Oil and Gas Onshore, LP ("KMG") with an address of 1099 18th Street, Suite 1800, Denver, Colorado 80202, and Forestar (USA) Real Estate Group, Inc., a Delaware Corporation ("Surface Owner") with an address of Forestar (USA) Real Estate Group, Inc. c/o Kirschner Company, 1350 17th Street, Suite 300, Denver, Colorado 80202.

WITNESSETH:

WHEREAS, KMG and Surface Owner entered into a Surface Use Agreement dated October 12, 2006 and recorded on December 6, 2006 at Reception Number 3440210 in the records of the Clerk & Recorder, Weld County, Colorado ("Existing SUA") covering a portion of Sections 12 and 13, Township 1 North, Range 68 West of the 6th P.M.; and

WHEREAS, KMG and Surface Owner desire to amend Exhibit B to the Existing SUA to reconfigure the surface development of Stonebraker, and to account for the relocation of five Future Wells and the addition of another Future Well to a single Oil and Gas Operations Area as depicted on the amended Exhibit B ("Amended Exhibit B").

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. In consideration of Surface Owner's agreement to revise certain development plans for Stonebraker, KMG agrees to pay a lump sum of \$15,000 (the "Payment") to Surface Owner's civil engineer, CivilArts, which KMG shall deliver to CivilArts within fifteen (15) days of execution of this First Amendment by both Parties, and KMG is hereby authorized to relocate five Future Wells and drill an additional Future Well on the Property in the Oil and Gas Operations Area, as depicted on Amended Exhibit B. The Payment shall be delivered to CivilArts, 1860 Lefthand Circle, Suite A, Longmont, Colorado 80501, Attn: Roger Walker.

2. Exhibit B, Surface Use Agreement Map, attached to and incorporated in the Existing SUA, is hereby replaced with Amended Exhibit B attached hereto. All references to Exhibit B in the Existing SUA shall hereafter refer to and incorporate Amended Exhibit B.

3. All capitalized terms used herein shall have the same meaning as in the Existing SUA. Except as amended by this First Amendment, all other terms and conditions of the Existing SUA not specifically amended herein shall continue in effect

unchanged, except to the extent necessary to conform and incorporate Amended Exhibit B.

4. This First Amendment may be executed by facsimile and in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute but one and the same instrument.

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

Kerr-McGee Oil & Gas Onshore LP

by: Michael A. Nixon
~~Joseph H. Lorenzo~~ *DSB*
Attorney-in-fact
Michael A. Nixon *um*

Forestar (USA) Real Estate Group, Inc.

by: John K. Pierret
John K. Pierret
Executive Vice President

ACKNOWLEDGMENTS

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

The foregoing instrument was acknowledged before me this 30th day of September, 2008, by ~~Joseph H. Lorenzo~~, as Attorney-in-Fact of Kerr-McGee Oil & Gas Onshore LP, on behalf of such corporation.
~~Michael A. Nixon~~ *um*

Witness my hand and seal.

Katharine J. McKay

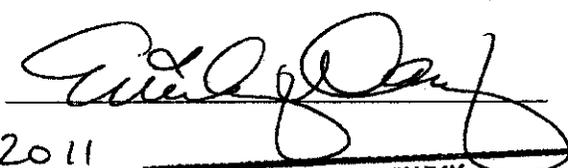
My Commission Expires: 2/11/2012



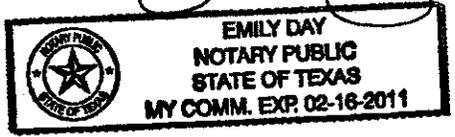
STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

The foregoing instrument was acknowledged before me this 18th day of September, 2008, by John K. Pierret, Executive Vice President of Forestar (USA) Real Estate Group, Inc. on behalf of such corporation

Witness my hand and seal.



My Commission Expires: 02-16-2011



- NOTES
1. THE LOCATION OF VARIOUS JAILING, OPENING, OR PROTECTIVE AND OTHER MARKS FROM AN A.P. SURVEY PREPARED BY THE A.P.S. SURVEY GROUP IS NOT TO BE INTERFERED WITH.
 2. ALL UTILITIES SHOWN ON THIS MAP WERE LOCATED FROM VARIOUS SURVEY RECORDS AND FIELD LOCATIONS. THE LOCATION OF UTILITIES IS NOT GUARANTEED BY THE A.P.S. SURVEY GROUP. THE A.P.S. SURVEY GROUP IS NOT RESPONSIBLE FOR THE LOCATION OF UTILITIES. THE A.P.S. SURVEY GROUP IS NOT RESPONSIBLE FOR THE LOCATION OF UTILITIES. THE A.P.S. SURVEY GROUP IS NOT RESPONSIBLE FOR THE LOCATION OF UTILITIES.
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AMENDED EXHIBIT B - SURFACE USE AGREEMENT MAP
 IN CONNECTION WITH THE SURFACE USE AGREEMENT MAP FOR THE STONE BRAKER PLANT, THE A.P.S. SURVEY GROUP HAS PREPARED THIS SURFACE USE AGREEMENT MAP. THIS SURFACE USE AGREEMENT MAP IS A PART OF THE SURFACE USE AGREEMENT MAP FOR THE STONE BRAKER PLANT. THIS SURFACE USE AGREEMENT MAP IS A PART OF THE SURFACE USE AGREEMENT MAP FOR THE STONE BRAKER PLANT. THIS SURFACE USE AGREEMENT MAP IS A PART OF THE SURFACE USE AGREEMENT MAP FOR THE STONE BRAKER PLANT.

STONE BRAKER PLANT
 A SUBDIVISION OF A PART OF THE TRACT OF LAND LOCATED IN SECTIONS 12 & 13, T14N, R10W, OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO.
 (SEE VICINITY MAP - SHEET 5)

WELL ACCESS POINT
 ON/OFF OPERATIONS AREA (O/OA)
 PITCHLINE PROFILE
 KERN MODEL PROFILE
 M.P. KAYLUM PROFILE
 KAYLUM PROFILE
 SECTION ADDED TO PREPARE SURFACE AGREEMENT TO BE LOCATED AND REPLACED BY PLATTO LOCATIONS

AMENDS SHEET 3 OF 5
AUGUST 25, 2008

