

## SURFACE USE AGREEMENT

This Surface Use Agreement ("Agreement") is made and entered into this 13<sup>th</sup> day of October, 2006, by and between Kerr-McGee Oil & Gas Onshore LP, ("KMG") and RH Frederick, LLC and Michael A. Richardson (collectively "Surface Owner"). KMG and Surface Owner may be referred to herein individually as a "Party", or collectively as the "Parties".

### Recitals

A. Surface Owner owns or has the exclusive right to purchase the surface estate of that certain tract of land more particularly described on Exhibit "A" attached hereto, being a portion of the S/2 of Section 27, Township 2 North, Range 68 West, 6<sup>th</sup> 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 leasehold estate, all or a portion of which is owned by KMG;

C. Surface Owner plans to develop the surface of the Property as a residential, business and light industrial subdivision known as "Wildflower Subdivision Filing No. 1";

D. KMG currently operates one or more oil and gas wells ("Existing Wells") and has the right to develop its oil and gas leasehold estate by drilling additional wells on the Property ("Future Wells" and together with the Existing Wells, the "Wells"); 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, such rights and obligations to be binding upon the Parties' successors and assigns.

### Agreement

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

1. *Well Locations.*

a. KMG agrees to limit its oil and gas operations conducted in connection with the Wells, including, but not limited to, lease operating activities, workovers, drilling, deepenings, and fracturing, to those locations identified on Exhibits "B-1" through "B-4" as the "Oil and Gas Operations Areas". Exhibits B-1 through B-4 are attached hereto and made part hereof. KMG shall have the right to drill Future Wells within the Oil and Gas Operations Areas, including the drilling of twinned wells, and horizontal and directional wells that produce from and drain the Property as well as lands which are pooled or communitized with the Property. Oil and Gas Operations Area shall be deemed to include the area measuring one hundred fifty feet (150) from each Well.

b. KMG agrees to drill directionally to the bottomhole location in the SE/4SW/4 of Section 27, Township 2 North Range 68 West, using the surface location shown on Exhibit B-2 as a directional well location (the "Well"). Surface Owner will pay KMG \$100,000 within ten (10) days of KMG reaching total depth of the Well.

2. **Production Facilities.** KMG shall have the right to locate, build, repair and maintain tanks, separators, dehydrators, compressors and other equipment reasonably appropriate or convenient for the operation and production of any Wells, only within the Oil and Gas Operations Areas shown on Exhibits B-1 through B-4, which are also depicted on the Final Plat of Wildflower Subdivision Filing No. 1 and a Re-Plat of Tract OS6 Country Meadows Farm Subdivision Filing No. 1 ("Final Plat"). KMG shall relocate the existing production facility for the Frederick 13-27J Well at Surface Owner's expense, which shall not exceed \$23,000, less all restaking costs, in accordance with the Letter Agreement dated December 7, 2004 as amended.

3. **Access.** Surface Owner shall provide to KMG all necessary easements for access to Oil and Gas Operations Areas. Such access shall be from those roads currently used by KMG or along the proposed future access routes, each as shown on Exhibits B-1 through B-4 or as otherwise mutually agreed upon by the Parties. KMG is given uninterrupted access to all of the Oil and Gas Operations Areas, and no access road may be closed to KMG until an acceptable replacement or alternate route is available for use. Any access road that is anticipated to be constructed by Surface Owner at Surface Owner's sole cost and expense as part of Surface Owner's development of the Property shall be of sufficient scope to allow KMG to conduct its oil and gas operations, shall be at least 30 feet in width and shall be built to withstand a minimum of 104,000 pounds and 26,000 pounds per axle.

4. **Flowlines and Pipelines.** KMG shall provide to Surface Owner the location of all existing flowlines and pipelines and production facilities currently being utilized in connection with the Existing Wells on the Property. KMG has the right to maintain or replace any and all existing flowlines and pipelines currently being utilized in connection with the Existing Wells on the Property. In addition, Surface Owner shall provide to KMG all necessary easements to lay additional flowlines or pipelines to service Future Wells on the Property, at the locations shown on Exhibits B-1 through B-4 or such other locations as mutually agreed upon by the Parties. Flowline and pipeline easements may be shared easements with other gas and oil leases. All flowlines and pipeline easements shall be fifty (50) feet during construction and thirty (30) feet thereafter, except for that portion of the flowline/gathering line located in the SW/4SW/4 adjacent to Wildflower Drive, which shall be fifty (50) feet during construction and twenty-five (25) feet thereafter as shown on Exhibit B-2. KMG shall locate its flowlines or pipelines at a depth of approximately 48 inches from the surface. The construction and burying of additional flowlines and pipelines shall be at the sole cost and expense of KMG or its gas purchaser. Should Surface Owner request any future or additional relocation of existing flowlines or pipelines, or request relocation of any flowlines or pipelines hereinafter constructed on the Property, and KMG agrees to such relocation, Surface Owner shall be responsible for any and all relocation costs.

a. In order to accommodate the proposed development of the Property by Surface Owner, KMG agrees to relocate and release a portion of the Rights-of-Way lying within and across the Property. In consideration therefore, Surface Owner agrees to pay for the relocation costs and

provide a replacement Right-of-Way or Rights-of-Way so that KMG's pipeline(s) can be physically relocated and operated, as hereinafter provided. The Replacement Right-of-Way is shown on Exhibit A, which is attached hereto and made a part hereof.

b. Surface Owner hereby agrees to provide and deliver to KMG an executed and recordable replacement non-exclusive Right-of-Way ("Replacement Right of Way") similar to the form attached hereto as (Exhibit "C") conveying unto KMG, its successors and assigns, a perpetual non-exclusive Right-of-Way and non-exclusive easement. The Replacement Right-of-Way shall be for the purposes of conveying rights to survey, construct, install, maintain, inspect, operate, repair, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove, at KMG's election, pipelines and all appurtenances, above or below ground, reasonably necessary or convenient for the transportation or transmission of oil, gas, petroleum products, water, hydrocarbons, and any other substances, whether fluid or gaseous, and any products, derivatives, combinations or mixtures of any of the foregoing. The width of the Replacement Right-of-Way during construction shall be fifty feet (50'), and subsequent to construction shall be thirty feet (30'), except for that portion shown on the Exhibits as being twenty feet (20') subsequent to construction.

c. Surface Owner shall provide KMG sixty (60) days written notice of its request for relocation. KMG shall then provide a good faith relocation estimate to Surface Owner within thirty (30) days of receipt of notice. Surface Owner shall deliver to KMG one-half of the estimated relocated expense ("Initial Payment") before KMG undertakes any work on the relocation, with the balance due within 60 days after relocation is completed. KMG shall have no obligation to relocate until it receives the Initial Payment. It is understood that KMG's estimated amount is only an estimate and that Surface Owner shall be obligated to pay or reimburse KMG for all actual cost and expenses related to the Pipeline relocate, including a fifteen percent (15%) mark-up of the actual relocation cost for overhead costs. Upon conclusion of the relocation, Surface Owner shall pay the balance of actual costs to relocate. The parties shall reconcile the costs incurred and payments made, with appropriate adjustments and reimbursements to Surface Owner or supplemental payments to KMG being made within sixty (60) days after the pipeline relocation is completed.

d. Surface Owner shall be entitled to reserve the right to grant easements to utility companies and Surface Owner and such utility companies shall be entitled to install, erect or construct and maintain within or across the flowline or pipeline easement areas utility lines for water, sewer, telephone, cable, electric and other utilities as may be reasonably required for development of the Property, in accordance with KMG's Construction Guidelines, attached hereto as Exhibit D. Surface Owner agrees that, and will notify each utility company that, except in cases of emergency, KMG must be contacted at least five (5) business days prior to commencement of any trenching or digging activities within its easement area and that during the installation, maintenance and use of the utilities in any such easement area, Surface Owner or such utility company will not unreasonably interfere with KMG use and operation of its flowlines or pipelines. Surface Owner agrees that all utilities that are placed in the ground shall be placed horizontally a minimum of 10 feet from the centerline of KMG's flowlines or pipelines, and any such utilities that cross a KMG easement area shall be placed with a minimum clearance of 24 inches between KMG's flowlines or pipelines and such utility lines. Surface

Owner shall maintain a minimum of 48 inches and not more than 72 inches of cover over all flowlines and pipelines during any of Surface Owner's operations or construction activities.

5. ***Impact Mitigation and Improvements.***

a. **KMG Mitigation.** KMG may install and maintain, at its sole cost and expense, fences, gates and locks if required by the Colorado Oil and Gas Conservation Commission ("COGCC") or if necessary or convenient for the security of any Wells or production facilities. In addition, KMG shall paint its production facilities, including wellhead guards, with paint that is approved by the COGCC, and shall maintain said production facilities, including wellhead guards, in accordance with COGCC regulations or, if applicable, the Town of Frederick's Land Use Code.

b. **Surface Owner Mitigation.** Surface Owner shall not inhibit KMG's operations within the Oil and Gas Operation Areas by landscaping or other improvements, unless otherwise agreed to in writing between Surface Owner and KMG.

c. **Landscaping.** Surface Owner, or its successors and/or assigns may install and maintain ground cover, shrubs and watering systems ("Landscaping") within the flowline or pipeline easements within the Operations Area at its own expense and risk, acknowledging that KMG's normal operations may from time to time disturb or destroy said Landscaping. Surface Owner and/or its assigns hereby agrees to install and maintain said Landscaping so as not to impede KMG's access and/or operations. Surface Owner and/or its assigns hereby accepts all responsibility for the cost of installation, repair and/or replacement of said Landscaping within the flowline or pipeline easements and KMG shall not be responsible for damage to said Landscaping resulting from its future access or operations. If Surface Owner seeks to install other landscaping besides ground cover, shrubs or watering systems in the Oil and Gas Operations Areas or Easements, it shall consult with and obtain written consent from KMG prior to such installation. KMG shall have sole discretion over whether or not to consent to the installation of anything other than Landscaping in the Oil and Gas Operations Areas or Easements. Surface Owner and/or its assigns may (i) install open rail fence and Landscaping along County Road 16 and County Road 7; and (ii) install and maintain Landscaping within the Oil and Gas Operations Areas within designated landscape tracts and lots as shown on Exhibit B.

6. ***Setback Requirements and Waivers.*** Surface Owner agrees that it will not plat any lot lines or locate any buildings or structures within the Oil and Gas Operations Areas. 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. Surface Owner hereby waives all setback requirements in the COGCC Rule 603, or any successor rule or amendment to the COGCC setback rules, and 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 or its successors and assigns, to explore for and produce oil and gas in accordance with this Agreement. Surface Owner understands that KMG may cite the

waiver in this paragraph in order to obtain a location requirement exception or variance under COGCC rules or from a local jurisdiction.

7. ***Drilling and Completion Operations.*** KMG shall provide notice to Surface Owner of any operations in connection with the reworking, fracturing, deepening or other operation on its Wells in accordance with the rules and regulations of the COGCC. 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.

8. ***Surface Owner Notices.***

a. **Notice of Construction Activities.** Surface Owner shall provide KMG with ten days written notice prior to commencement of any dirtwork, grading or other surface construction activities on the Property. If requested by KMG, Surface Owner shall meet with KMG representatives at the Property to locate existing flowlines, gathering lines or pipelines and to coordinate proposed surface construction activities with current and prospective oil and gas operations. KMG has provided herewith a copy to Surface Owner of KMG's "General Guidelines for Design and Construction Activities On or Near Kerr-McGee Gathering LLC and Kerr-McGee Rocky Mountain Corporation Pipelines and Related Facilities" (the "Guidelines"). Surface Owner acknowledges receipt of said Guidelines and agrees to abide by such Guidelines in connection with surface development activities in the Oil and Gas Operations Areas, and in any existing or future flowline or pipeline easement areas and to provide a copy of the Guidelines to its contractors.

b. **Notice to Future Surface Owners.** Surface Owner shall furnish all buyers of the Property from Surface Owner with a plat or map showing the Oil and Gas Operation Areas and shall provide notice that:

(1) There may be ongoing oil and gas operations and production in the Oil and Gas Operation Areas on the surface of the Property;

(2) There are likely to be additional Future Wells drilled and oil and gas operations and production from the Oil and Gas Operation Areas that affect the surface of the Property;

(3) Heavy equipment will be used by oil and gas interest owners from time to time for oil and gas drilling and production operations and that such operations may be conducted on a 24 hour basis; and

(4) Future purchasers of all or a portion of the Property, as successors in interest to Surface Owner, will be bound by the covenants, waivers and obligations in this Agreement.

9. ***Governmental Proceedings.*** Surface Owner shall not oppose KMG in any agency or governmental proceedings, including but not limited to the COGCC, the county, local jurisdiction 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. KMG shall not oppose Surface Owner in any agency or governmental proceedings, including but not limited to the county, local jurisdiction or other governing body proceedings, related to Surface Owner's development of the Property, provided that Surface Owner's position in such proceedings is consistent with this Agreement.

10. **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 in the Property, and this Agreement shall only apply to and bind operations conducted by KMG and its successors and assigns on the Property, in the capacity of operator.

11. **No Waiver of Rights.** KMG does not waive its rights pursuant to its oil and gas leasehold interest to explore for, drill and produce the oil and gas on the Property or for ingress and egress to any Oil and Gas Operations Areas, except as specifically provided in this Agreement.

12. **Successors and Assigns.** 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 KMG's oil and gas leasehold estate.

13. **Termination.** This Agreement shall automatically terminate and be of no further force and effect at such time that KMG's oil and gas 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, COGCC rules and regulations and all other applicable provisions of the oil and gas leases and existing laws and regulations. At the request of Surface Owner, KMG shall execute and record such documents or instruments as Surface Owner shall reasonably request in order to evidence such termination.

14. **Notices.** Any notice or other communication required or permitted under this Agreement shall be sufficient if deposited in U.S. Mail, postage prepaid, or sent via expedited delivery service, with proof of delivery, addressed as follows:

**If to KMG:**

Kerr-McGee Oil & Gas Onshore LP  
1999 Broadway, Suite 3700  
Denver, Colorado 80202

**If to Surface Owner:**

RH Frederick, LLC  
8000 S. Chester Street, Suite 150  
Centennial, CO 80112

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

15. **Recording.** This Agreement shall not be recorded by either party, however, KMG shall record a memorandum of this Agreement and shall provide Surface Owner with a copy of such memorandum showing the recording information as soon as practicable thereafter.

16. **Waiver of 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 and related wellsite that is drilled in an Oil and Gas Operations Area and for each production facility, access road or flowline easement. KMG may provide a copy of this Agreement to the COGCC or to any local jurisdiction, person or entity or any court of law as evidence of this waiver. Except for the Oil and Gas Operations Areas, access roads and all easements associated with flowlines, gathering lines and pipelines as provided in this Agreement, KMG shall not occupy any other portion of the surface of the Property, except in the event of an emergency or for reasonable incidental, temporary and non-damaging activities, and KMG will be responsible for any damages that may occur as a result of its activities on such other portions of the surface of the Property.

17. **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.

18. **Entire Agreement.** This Agreement incorporates the Letter Agreement between the parties dated December 7, 2004, as amended, the Letter Agreement dated September 4, 2002, and the "Agreement for Relocation of Pipeline and Right of Way". If there is any conflict between the terms of this Agreement and any of those other agreements, this Agreement shall control. This Agreement and those other agreements together set forth the entire understanding among the Parties hereto regarding the matters addressed herein, and supersede any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by all Parties.

19. **Counterpart Execution.** 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.

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

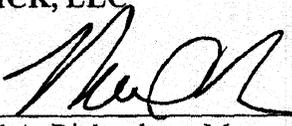
**KERR-McGEE OIL & GAS ONSHORE LP**

By: \_\_\_\_\_

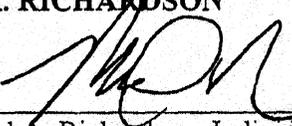
Joseph Lorenzo, Attorney-in-fact

**SURFACE OWNER:**

**RH FREDERICK, LLC**

By:   
Michael A. Richardson, Manager

**MICHAEL A. RICHARDSON**

By:   
Michael A. Richardson, Individually

Acknowledgments

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

The foregoing instrument was acknowledged before me this 13 day of October 2006, by Joseph Lorenzo, as Attorney-in-Fact of Kerr McGee Oil & Gas Onshore LP, a Delaware limited partnership, on behalf of such entity.



Witness my hand and official seal.

Diann F. Wagner  
Notary Public

My Commission Expires: 12-23-07

STATE OF COLORADO )  
 ) ss.  
COUNTY OF DOUGLAS )

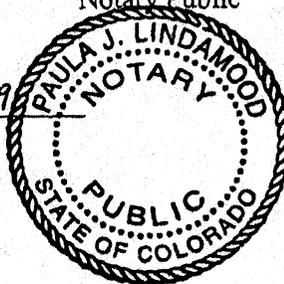
The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of October 2006, by Michael A. Richardson, as Manager of RH Frederick, LLC, a Colorado limited liability company, on behalf of such entity, and by Michael A. Richardson, individually.

Witness my hand and official seal.

(SEAL)

Paula J. Lindamood  
Notary Public

My Commission Expires: 4-26-2009



**WILDFLOWER SUBDIVISION FILING NO. 1**  
A PART OF THE SOUTH 1/2 OF SECTION 27, TOWNSHIP  
2 NORTH, RANGE 68 WEST OF THE 6TH P.M.  
KERR-McGEE EXHIBIT A

**LEGAL DESCRIPTION:**

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 27;  
THENCE NORTH 00°01'12" EAST, A DISTANCE OF 2647.25 FEET TO THE WEST QUARTER  
CORNER OF SAID SECTION 27;  
THENCE NORTH 89°43'12" EAST, A DISTANCE OF 2646.95 FEET TO THE CENTER QUARTER  
CORNER OF SAID SECTION 27;  
THENCE ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 27, NORTH  
89°43'12" EAST, A DISTANCE OF 2270.38 FEET TO A POINT ON THE WESTERLY LINE OF  
INTERSTATE HIGHWAY NO. 25;

THENCE ALONG SAID WESTERLY LINE OF INTERSTATE HIGHWAY NO. 25 THE FOLLOWING FIVE  
(5) COURSES:

1. THENCE SOUTH 00°02'59" EAST, A DISTANCE OF 2563.09 FEET;
2. THENCE SOUTH 44°54'49" WEST, A DISTANCE OF 70.76 FEET;
3. THENCE SOUTH 00°07'38" EAST, A DISTANCE OF 20.00 FEET TO THE NORTHERLY  
RIGHT-OF-WAY LINE OF WELD COUNTY ROAD NO. 16;
4. THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, NORTH 89°52'43" EAST, A  
DISTANCE OF 176.52 FEET;
5. THENCE SOUTH 00°07'00" WEST, A DISTANCE OF 30.00 FEET TO A POINT ON THE SOUTH  
LINE OF SAID SOUTHEAST QUARTER OF SECTION 27;

THENCE SOUTH 89°52'43" WEST, A DISTANCE OF 2397.30 FEET TO THE SOUTH QUARTER  
CORNER OF SAID SECTION 27;  
THENCE SOUTH 89°55'37" WEST, A DISTANCE OF 2649.68 FEET TO THE POINT OF BEGINNING,  
CONTAINING 13,064,596 SQUARE FEET, OR 299.92 ACRES, MORE OR LESS,

EXCEPT THAT PORTION LYING WITHIN COUNTRY MEADOWS FARM SUBDIVISION FILING NO. 1,  
AMENDMENT NO. 1, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 27;  
THENCE SOUTH 23°30'10" EAST, A DISTANCE OF 75.18 FEET TO THE POINT OF BEGINNING;  
THENCE SOUTH 89°15'01" EAST, A DISTANCE OF 103.76 FEET;  
THENCE NORTH 89°40'59" EAST, A DISTANCE OF 1051.30 FEET;  
THENCE SOUTH 69°18'01" EAST, A DISTANCE OF 549.80 FEET;  
THENCE NORTH 89°55'59" EAST, A DISTANCE OF 262.00 FEET;  
THENCE SOUTH 00°05'48" EAST, A DISTANCE OF 58.84 FEET TO THE NORTHEASTERLY CORNER  
OF TRACT OS6 OF SAID COUNTRY MEADOWS FARM SUBDIVISION FILING NO. 1, AMENDMENT NO.  
1;

THENCE ALONG THE NORTHERLY AND WESTERLY LINE OF SAID TRACT OS6 THE FOLLOWING SIX  
(6) COURSES:

1. THENCE SOUTH 89°54'12" WEST, A DISTANCE OF 232.82 FEET;
2. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 475.00 FEET  
AND A CENTRAL ANGLE OF 16°34'23", AN ARC DISTANCE OF 137.40 FEET (CHORD BEARS  
SOUTH 81°37'01" WEST, 136.92 FEET);
3. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 778.00 FEET  
AND A CENTRAL ANGLE OF 46°15'03", AN ARC DISTANCE OF 628.03 FEET (CHORD  
BEARS SOUTH 50°12'18" WEST, 611.11 FEET);
4. THENCE SOUTH 27°04'46" WEST, A DISTANCE OF 60.40 FEET;
5. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 750.00 FEET  
AND A CENTRAL ANGLE OF 27°03'34", AN ARC DISTANCE OF 354.21 FEET (CHORD  
BEARS SOUTH 13°32'59" WEST, 350.93 FEET);
6. THENCE SOUTH 00°01'12" WEST, A DISTANCE OF 124.53 FEET;

THENCE NORTH 89°58'48" WEST, A DISTANCE OF 984.29 FEET;  
THENCE NORTH 00°01'12" EAST, A DISTANCE OF 1179.03 FEET TO THE POINT OF BEGINNING,  
CONTAINING 1,436,156 SQUARE FEET, OR 32.97 ACRES, MORE OR LESS,

CONTAINING A NET AREA OF 11,628,440 SQUARE FEET OR 266.95 ACRES, MORE OR LESS.

AND SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY FOR PUBLIC ROADS, DITCHES, IRRIGATION,  
UTILITIES, AVIGATION, INGRESS/EGRESS, OIL AND GAS WELLS, AND ANY OTHER CURRENT  
USAGE, WHETHER OR NOT OF RECORD.

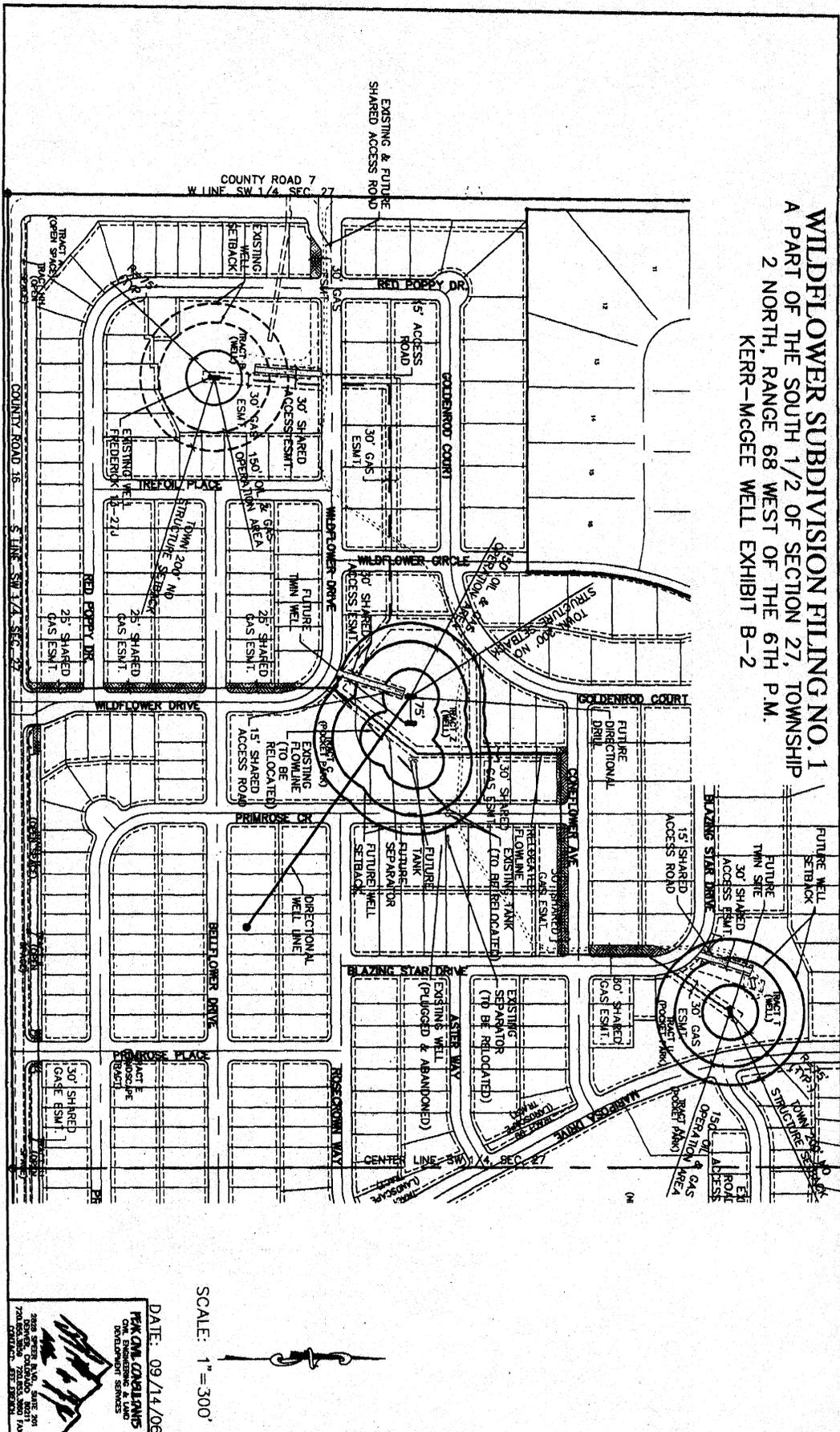
ALSO LESS AND EXCEPT ALL LEGALS CONTAINED IN INSTRUMENT RECORDED FEBURARY 4,  
2005 AT RECEPTION NO. 3259065, COUNTY OF WELD, STATE OF COLORADO.

DATE: 09/14/06





**WILDFLOWER SUBDIVISION FILING NO. 1**  
 A PART OF THE SOUTH 1/2 OF SECTION 27, TOWNSHIP  
 2 NORTH, RANGE 68 WEST OF THE 6TH P.M.  
 KERR-McGEE WELL EXHIBIT B-2

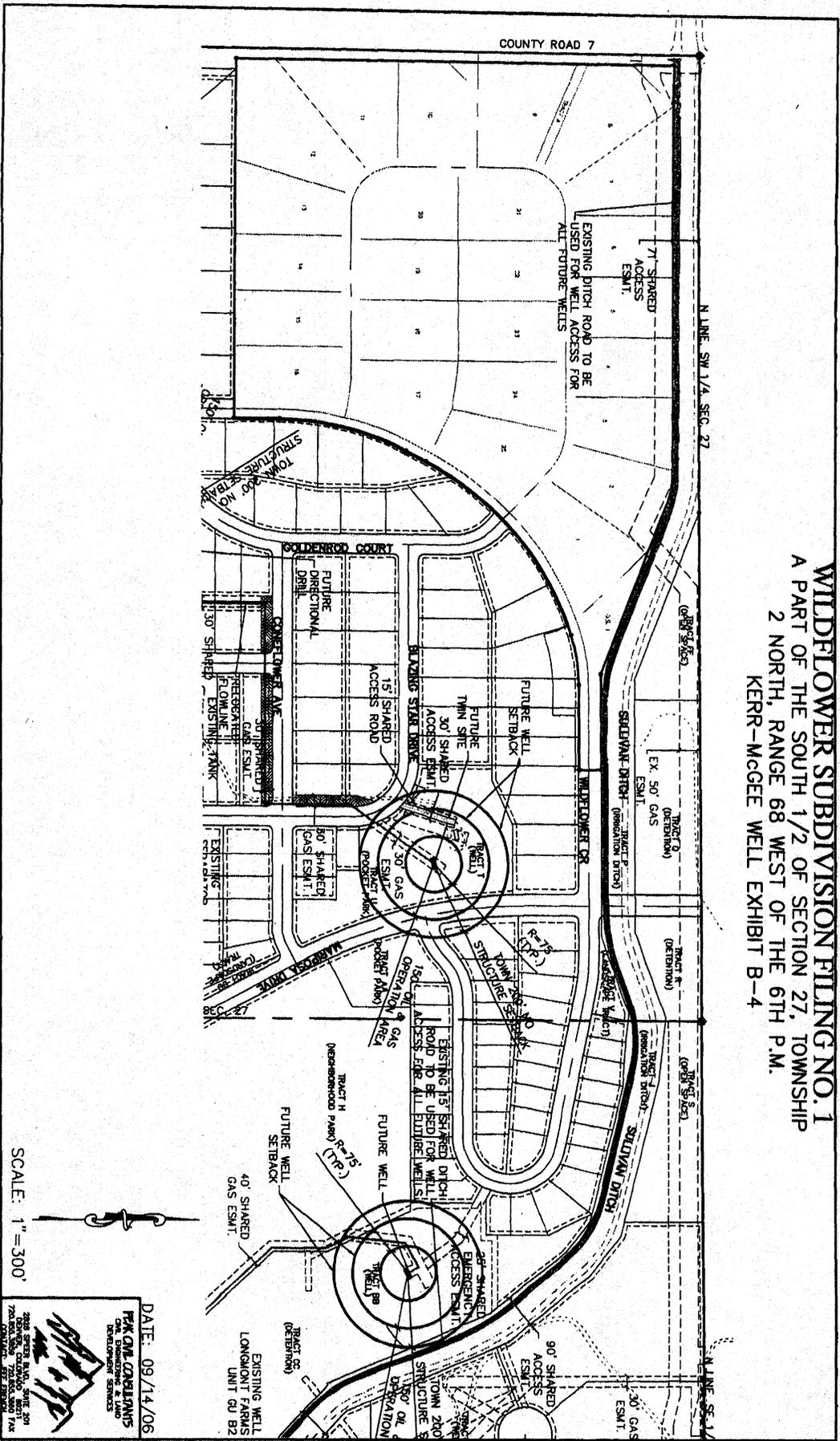


SCALE: 1" = 300'

DATE: 09/14/06  
**PK ON CONSULTANTS**  
 Civil Engineering & Land  
 Development Services  
 2928 STEVEN BLVD., SUITE 201  
 FORT WORTH, TEXAS 76104  
 PHONE: 817.335.1111  
 FAX: 817.335.1112  
 WWW.PKON.COM



**WIDFLOWER SUBDIVISION FILING NO. 1**  
 A PART OF THE SOUTH 1/2 OF SECTION 27, TOWNSHIP  
 2 NORTH, RANGE 68 WEST OF THE 6TH P.M.  
 KERR-MCGEE WELL EXHIBIT B-4



DATE: 09/14/06  
**PK&M CONSULTANTS**  
 Civil Engineering & Land  
 Surveying Services  
 2802 STEEL MILL BLVD., SUITE 201  
 TULSA, OKLA. 74103-3000 FAX  
 (918) 438-8888  
 WWW.PKANDM.COM

## EXHIBIT C

### FORM OF RIGHT-OF-WAY GRANT

THIS RIGHT-OF-WAY GRANT ("Grant) is made this \_\_\_\_ day of \_\_\_\_\_, 2006, from \_\_\_\_\_ ("Grantor"), to KERR-MCGEE GATHERING LLC, a Colorado limited liability company, whose address is 1999 Broadway, Suite 3600, 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, Grantors hereby grants, conveys and warrants unto Grantee, its successors and assigns, a perpetual right-of-way and easement to survey, construct, maintain, inspect, operate, repair, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove, at Grantee's election, one pipeline and all appurtenances, below and/or above ground, 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 Boulder County, State of Colorado, being described as follows:

#### TOWNSHIP NORTH, RANGE WEST, 6<sup>TH</sup> PM

Section :

The specific route and course of the right-of-way and easement 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').

Grantors represent and warrant 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, fence, landscaping, reservoir, engineering works or other structures or improvements over, under, on or across the Right-of-Way Lands without prior written consent of Grantee.

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 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 Grantors 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.

IN WITNESS WHEREOF, the parties have executed this Grant as of the date first above written.

Grantor:

Grantee:  
Kerr-McGee Gathering LLC  
By its Manager, Kerr-McGee  
Oil & Gas Onshore LP

By: \_\_\_\_\_

By: \_\_\_\_\_  
Joseph Lorenzo, Attorney-in-Fact

STATE OF COLORADO )  
 )ss.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2002  
by \_\_\_\_\_.

Witness my hand and official Seal.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public:

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2002, by Joseph Lorenzo, as Attorney-in-Fact of Kerr-McGee Oil & Gas Onshore LP, in its capacity as  
Manager of Kerr-McGee Gathering LLC, a Colorado limited liability company, on behalf of such  
company.

Witness my hand and official Seal.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public



## **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**

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, i.e. 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 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



## **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**

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 it's 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 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.**



## **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**

- 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.

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.



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- 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  |

**Heim, Rebecca**

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**From:** Hencmann, Melissa  
**Sent:** Thursday, February 04, 2010 9:50 AM  
**To:** Heim, Rebecca; Booth, Betty  
**Cc:** Schleske, Sara  
**Subject:** RE: WILDFLOWER 5 PAD 2N68W27 - Revised  
**Attachments:** Wildflower Surface Use Agreement.tif

The attached SUA covers the Wildflower 5 Pad.

*Thank you,  
Melissa Hencmann*

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**From:** Heim, Rebecca  
**Sent:** Thursday, February 04, 2010 9:29 AM  
**To:** Booth, Betty; Ruampant, Teddy; Hencmann, Melissa; Birmingham, Tom; Kubik, Peter; Ritter, Matt; van den Berg, Aaron  
**Subject:** FW: WILDFLOWER 5 PAD 2N68W27 - Revised