



01827739

**SURFACE USE AGREEMENT
BETWEEN
THE COLORADO DIVISION OF WILDLIFE
AND
ORION ENERGY PARTNERS, LP**

This SURFACE USE AGREEMENT (hereinafter "Agreement") is made and entered into this 19th day of MAY, 2009 (hereinafter "Effective Date"), by and between the **STATE OF COLORADO** acting by and through the **DEPARTMENT OF NATURAL RESOURCES**, for the use and benefit of the **DIVISION OF WILDLIFE** and **WILDLIFE COMMISSION**, whose address is 6060 Broadway, Denver, Colorado 80216 (hereinafter referred to as "DOW" or the "State"), and **ORION ENERGY PARTNERS L.P.**, a Delaware limited partnership, whose address is 1675 Broadway, Suite 2000, Denver, Colorado 80202 (hereinafter referred to as "ORION").

RECITALS

A. WHEREAS, the State represents that it is the surface owner of a parcel of land, the legal description for which is as follows:

SECT,TWN,RNG:1-7-91 DESC: LOTS 1 (42.86AC), 2(42.99AC), 3(43.11AC), SWSE, SECT,TWN,RNG:12-6-91 DESC: W1/2NW, SW1/4, S1/2SE.
SECT,TWN,RNG:13-6-91 DESC: W1/2E1/2, W1/2. SECT,TWN,RNG:16-6-91 DESC: E1/2, EXCEPT S. 330' OF SWSE SECT,TWN,RNG:2-6-91 DESC: E1/2SW, W1/2SE, SESE SECT,TWN,RNG:21-6-91 DESC: E1/2NE.
SECT,TWN,RNG:22-6-91 DESC: N1/2, SW1/4, SE1/4(NET 119.70AC) LYING SLY OF CO. SECT,TWN,RNG:23-6-91 DESC: N1/2, E1/2SW, SWSW, E1/2SE
SECT,TWN,RNG:24-6-91 DESC: W1/2NE, W1/2, NWSE. SECT,TWN,RNG:25-6-91 DESC: E1/2NW, SWNW, SW1/4, N1/2SE, SWSE. SECT,TWN,RNG:26-6-91 DESC: ALL SECT,TWN,RNG:27-6-91 DESC: E1/2, E1/2NW, SWNW, N1/2SW. SECT,TWN,RNG:3-6-91 DESC: LOTS 1(38.28AC), 2(38.38AC), S1/2NE, SENW, SWSW, SECT,TWN,RNG:36-6-91 DESC: W1/2NE, S1/2SENE, NW1/4, N1/2SW, SESW, SE1/4. SECT,TWN,RNG:9-6-91 DESC: E1/2W1/2, SWNE, W1/2SE, E1/2E1/2. DESC: N1/2SE, SESE. SEC. 4. SESE. SEC. 4&9 THAT PART OF DESC: ALL DESC: THE SESW & SWSE SEC. 4 & NWNE SEC. 9 LYING W. OF DESC: RD. 312 EXCEPT 2.30 AC. DESC. IN 569/735. ALSO A E1/2NW. DESC: TR. IN THE N1/2SE E1/2NW. DESC: TR. IN THE N1/2SE CONT. 16.52 AC. DESC. IN 596/863

All In Garfield County, Colorado.

The above described lands are also commonly referred to as the Garfield Creek State Wildlife Area and is hereinafter referred to as the "Property"; and

B. WHEREAS, ORION represents that it owns or has the right to develop certain oil and gas mineral estate interests underlying the Property; and

C. WHEREAS, ORION desires to commence construction of up to 3 new well pads and to conduct operations to drill up to 98 wells from four well pads on the Property from the following well pads: Hilton #22-2, Hilton #26-3, Hilton #25-1, and the existing Hilton #23-1 (hereinafter referred to as "Well[s]") at locations depicted on Exhibits A and C, which are attached hereto and incorporated herein by this reference, and to conduct production operations thereafter; to include potential construction of up to 3 additional well pads (3 new and 1 expansion of existing). Restrictions for drilling in 2009 include a maximum of 8 wells to be drilled and completed. Drilling during subsequent years could include more wells per year depending on resource productivity and economic viability.

D. WHEREAS, the Parties hereto wish to settle the terms and conditions of consent for ORION to enter upon and use certain portions of the Property for drilling and completing the Wells and production operations associated with the Wells.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants, terms, conditions, restrictions, and requirements contained herein, the Parties mutually agree as follows:

1. USE OF THE SURFACE. DOW hereby consents to the construction, installation, and maintenance of access roads, pipelines, and drill sites for the Wells, including drilling mud pits, frac pits for completion operations and other facilities at the general locations depicted on Exhibit A, B, C & D and described in this section. Such facilities shall include flowlines, gas pipelines, water lines, separators, treaters, and any other equipment or facilities necessary or convenient for the production, gathering, transportation and sale of oil and/or gas. The term "flowlines" is defined as those lines that carry water or hydrocarbons from the wellhead to a production unit such as a separator. For purposes of constructing, installing, and maintaining the Wells, and facilities associated therewith, ORION shall confine its activities on the surface of the Property to the drill sites, access roads, and pipelines as shown on Exhibit A and B and described below. DOW grants ORION the authority to secure the appropriate Garfield County permits associated with the proposed operation for road access, driveway access, pipeline construction and temporary housing as needed. DOW only consents to temporary housing on the Property, if any, for those personnel required to be present at all times during the drilling of the well.

A. DRILL SITE – The drill sites for each Well pad shall not exceed the below outlined in size, with a tolerance of 10% to allow for topographic variances, during construction and drilling and completion operations (and reduced to the minimum size necessary for production operations thereafter). All above-ground facilities

associated with ORION's operations on the Property shall be located within the boundaries of a drill site. The specific main pad locations and typical production layout is provided in Exhibits A and D which are attached hereto and incorporated herein by this reference.

Orion proposes to construct three (3) new well pad sites and expand one (1) existing well pad site. The three (3) newly proposed locations, with the proposed area of disturbance for each is as follows:

Hilton #22-2 Pad – 4.10 acres
Hilton #25-1 Pad – 3.94 acres
Hilton #26-3 Pad – 3.80 acres
Hilton #26-3 Alternate Pad – 3.53 acres*

*The Hilton #26-3 Pad will be utilized in the event ORION determines that an acceptable contractual arrangement has been entered into with adjacent mineral owners which allows ORION the ability to access and drill wells into minerals located in T6S/R91W, Section 26, S ½. The Hilton #26-3 Alternate Pad is included in this SUA per DOW request as an alternative to the proposed Hilton #26-3 Pad in the event ORION cannot secure drilling rights from adjacent mineral owners. The Hilton #26-3 Alternate Pad is the preferred DOW pad and final decision on which pad to utilize will be discussed and agreed upon with the DOW prior to construction.

The existing Hilton #23-1 Pad location will be expanded from a total disturbed area of 2.70 acres to 3.60 acres, resulting in an increased disturbance of .90 acres.

B. ACCESS ROADS AND PIPELINES – New access roads and pipelines are required to access, and transport gas and water from the Wells.

An access road will be constructed for each of the newly proposed well pads. The total surface disturbance (+/- 10%) associated with each of the well pad access roads are as follows:

Hilton #22-2 Access Road - .189 acres
Hilton #25-1 Access Road - .197 acres
Hilton #26-3 Access Road – 1.40 acres
Hilton #26-3 ALT Access Road - .329 acres

Pipelines approximately 8,350' (1.61 miles) in length are required for the operation and production of the proposed Wells. A new gas

and water pipeline will be extended from the existing Hilton #23-1 well pad to well pads Hilton #25-1 and Hilton #26-3. There will also be a short lateral connection required to accommodate the Hilton #22-2 well pad which will tie into the existing gas and water pipelines. The new proposed pipeline begins on the southwest side of County Road 312 (CR 312) at the Hilton #23-1 well pad and parallels the road south to Section 25, where it will be connected to the Hilton #25-1 Pad location. The new pipelines and laterals will disturb an area 30 feet in width for a length of approximately 1.61 miles for a total estimated disturbed acreage of 5.87 acres.

The general location of the disturbance areas are depicted in the attached exhibits. The access roads and pipelines are subject to the conditions listed in this section and other limitations contained in this agreement.

ACCESS ROADS – The driven surface of any new or improved access road shall not exceed twenty-five (25) feet in width, except on turns and curves where engineering requirements require more width. ORION will use accepted best management practices and standards as identified in the U. S. Department of Interior, Bureau of Land Management "Gold Book Standards". ORION's right to use of the access road granted herein shall be non-exclusive. If the Wells are completed as producing wells or shut-in wells, ORION, at its discretion, shall gravel all or part of the access road associated therewith so that such road is an all-weather road, and ORION shall install culverts and other improvements as may be necessary for the proper upkeep, maintenance and drainage of said access road. For so long as ORION uses an access road, ORION shall maintain it in a state of good condition and repair, at the sole expense of ORION. The maximum speed limit for access from the county road to the well locations is 20 miles per hour.

PIPELINES – All pipelines shall be buried to a minimum depth of three (3) feet below the surface of the earth.

2. NORMAL DAMAGES.

A. ORION shall pay DOW damages per the below schedule thirty (30) days prior to any construction or well spud as consideration for the Normal Damages associated with the Wells, access and pipelines. Payments shall be by check or money order and made payable to "Colorado Division of Wildlife" and forwarded to DOW at the address provided pursuant to Paragraph 18 herein.

Pad Construction - \$10,000/pad
Drilled Wells - \$5,000/well
Access Roads and Pipelines - \$4/foot

Monies paid for damages associated with surface disturbance noted above are intended, whenever possible, for use in mitigation projects within the GCSWA to offset habitat disturbance.

B. For purposes of this Agreement, "Normal Damages" is defined as all damages growing out of, incident to or in connection with the usual and customary exploration, drilling, completion, equipping and operation of the Wells including ORION's re-entry unto the Property for purposes of recompletion or reworking operations. Normal Damages shall include, but not necessarily be limited to, damages associated with the following activities:

(i) the construction, maintenance, repair and use of new and existing access roads; (ii) the preparation and use of the drill site areas; preparation and use of mud pits; (iii) the construction, installation, maintenance, repair and use of production equipment and facilities such as flow lines, gas pipelines, separators, treaters, and any other equipment or facilities necessary or convenient for the production, gathering, transportation and sale of oil and/or gas from the Wells; and (iv) the installation, connection, maintenance, repair and use of buried gas and water pipelines from the Well's equipment and/or facilities to the gas purchaser's pipeline.

3. **ABNORMAL DAMAGES.** If, by reasons directly resulting from the activities and/or operations of ORION, there is damage to the Property that is not associated with the usual, convenient and customary oil and gas exploration and production operations, such as, but not limited to, operations (including all acts or omissions of drilling contractors and water supply trucks) that occur outside of locations identified on Exhibits A or B for access roads, drill sites, tank battery sites, and pipelines, then ORION shall (i) promptly notify DOW of such damages, and (ii) at DOW's discretion, either repair such damages within a reasonable period of time, or pay mutually agreeable compensation therefore to DOW.

4. **OPERATION PLANS.** ORION has developed and provided plans for the conduct and management of its operations on the Property. These plans include but are not limited to the; Best Management Practices (BMP), Water Quality Sampling and Monitoring Plan, Stormwater Management Plan, Spill Control and Countermeasures Plans, Emergency Response Plan, Integrated Vegetation and Noxious Weed Management Plan, and Reclamation Plan. Furthermore, other documentation regarding operations within the Garfield Creek State Wildlife Area is further described in the February 13, 2009 submittal to the Colorado Division of

Wildlife. Copies of all associated permits and agreements obtained by ORION will be submitted to the Colorado Division of Wildlife. ORION warrants that it will operate under these plans on the Property. Terms specifically identified in this agreement shall supplement and amend the plans listed in this section.

5. **ENVIRONMENTAL LIABILITY.** In addition to ORION's responsibilities to DOW pursuant to Paragraph 3 above, ORION shall also fully protect, indemnify, and hold harmless DOW from any Environmental Claims relating to the Property that arise out of ORION's operations. For purposes of this Agreement, "Environmental Claims" shall mean all claims asserted by governmental bodies or other third parties for pollution or environmental damage of any kind, arising from ORION's operations on the Property and all cleanup and remediation costs, fines and penalties associated therewith, including but not limited to any claims arising from any environmental law or regulation.

6. **WASTE WATER.** ORION shall collect and remove all produced water and condensate resulting from drilling and production operations on the Property. Under no circumstances shall ORION discharge any such water on the Property, to waters of the State or to the environment, including surface production ponds.

7. **WEED CONTROL.** ORION shall be responsible for the control of all noxious weeds resulting from surface disturbances associated with the construction, maintenance or reclamation of all access roads, drill sites, pipelines, and associated facilities constructed pursuant to this Agreement. ORION's responsibility shall extend until the final reclamation conditions established in Section 7 Reclamation and Restoration are achieved. For purposes of this Agreement, "noxious weeds" shall be those undesirable plant species designated to be "noxious weeds" pursuant to the Colorado Noxious Weed Act, § 35-5.5-101, et seq., C.R.S., as amended or as may be amended (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted), or any other applicable law, rule, or regulation. ORION shall take reasonable steps to prevent noxious weed infestations by washing or causing contractors to wash equipment prior to delivery to the site. ORION further acknowledges the property is subject to rules and procedures of the Division of Federal Assistance, U. S. Fish and Wildlife Service. The rules and procedures establish procedures and requirements for review and approvals prior to the use of biological or chemical weed controls. ORION shall be responsible for preparing request, reports or other materials needed to obtain approval or comply with the provisions affecting the property covered by this agreement. No biological or chemical means of weed control shall be used unless pre-approved in writing by DOW.

8. INTERIM AND FINAL RECLAMATION AND MONITORING.

Interim reclamation shall be performed on all disturbances outside the area of operation. Disturbed areas shall be reclaimed during the interim period between ground disturbance and final reclamation. Interim reclamation of disturbed areas shall occur within 48 hours of soil disturbance. Reclamation shall also occur no later than the first growing season and prior to the first killing frost. Interim reclamation shall include seeding, soil preparation and slope stabilization. Interim reclamation should also be established to control noxious weed invasion.

- A. Unless otherwise agreed to by DOW and ORION, ORION covenants and agrees to restore all lands roads or other improvements to a level comparable to their original condition prior to their occupancy and use as the areas are no longer needed or used or at the end of the term of this agreement subject to any renewals. The Parties have agreed to a Reclamation Plan, which is attached hereto as Exhibit "E" and incorporated herein by this reference. DOW shall determine, in its sole discretion, whether ORION's reclamation complies with this plan. In the event ORION fails to perform the reclamation or revegetative work required by said Reclamation Plan to the sole satisfaction of DOW, and after thirty (30) days prior written notice specifying with particularity the failure and indicating the remedial steps needed to cure same, DOW shall be allowed to perform or have performed said work. Prior to commencement of any construction, ORION will furnish a Performance Bond in a form acceptable to the State, in the sum of \$35,000 with Surety or Sureties satisfactory to the State, to guarantee the completion of the reclamation work detailed in the Reclamation Plan and also to guarantee that all material and labor on this work, or incidental to the completion of this work, will be fully paid for by the ORION or its Surety and all direct and indirect costs incurred by DOW for reclamation or revegetative work required by this Paragraph 7 including, but not limited to, regrading, filling, revegetation, erosion control, and replacing of soil. ORION and its surety shall remain responsible for the completion of the final revegetation of the sites at the conclusion of this agreement, for those purposes, this provision shall extend until DOW provides written approval of the successful recontouring and revegetation of the sites. In the event ORION is prevented from complying with any of the obligations imposed upon it herein, or from exercising any of the rights granted to it hereunder, as a result of an act of God, or any other cause, whether similar or dissimilar, reasonably proved beyond the control of ORION, the time within which ORION may perform such obligations shall be extended for a period

equal to the time during which ORION was prevented from the performance of such obligations. The term "force majeure" as herein employed shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightening, fire, storm, flood, explosion, governmental action, or governmental delay in issuing the necessary permits for drilling or access.

- B. **TOPSOIL RECLAMATION.** ORION shall remove and segregate from the subsoil all topsoil from those portions of the drill sites, pipelines and access roads that will be disturbed. Topsoil shall be segregated from subsoil and shall not be used as well pad perimeter or stormwater control. Live top-soiling techniques shall be used and this resource should be seeded within 48 hours of ground disturbance. Prior to replacing topsoil, bentonite drilling mud and fluids remaining in mud pits as a result of the drilling operations shall be removed within a reasonable time frame. After subsoils have been replaced, topsoil shall be restored to its original location and condition as nearly as possible in the course of restoration activities. ORION shall replant all disturbed areas with species listed and described in Exhibit E which is attached hereto and incorporated herein by this reference, and take all reasonable steps necessary to assure there is no soil erosion directly resulting from the activities and/or operations of ORION caused by wind, water, or soil displacement.
- C. **SITE RESTORATION.** Upon ORION's completion of any surface disturbance or upon termination of this agreement, the Property shall be restored to its original condition as nearly as reasonably practical. All surface equipment and materials associated with the activity, such as concrete, plastic, pipe, cable and similar waste materials and refuse, shall be removed. Weather permitting, reclamation and restoration operations shall be completed as soon as is feasible following drilling and subsequent related operations, unless ORION and DOW mutually agree to postponement because of weather, site conditions, season of year or other considerations.

9. **ENDANGERED SPECIES, ARCHEOLOGICAL SITES AND COMPLIANCE REQUIREMENTS.** ORION is aware the Property was purchased using Wildlife and Sport Fish Restoration Programs and DOW is required to comply with the rules and regulations of these programs. In compliance with these rules, DOW has requested approvals from the appropriate parties to execute this agreement. ORION has supplied reports and other materials to DOW in satisfaction of DOW's requested approvals. ORION further agrees to assist the DOW with such additional request or clarifications as may be required. Further, ORION is aware that the Property is potential habitat for species listed under the Endangered Species Act of 1973 (16 U.S.C. § § 1531 to

1544). Additionally the Property may also contain sites of cultural significance as determined by the State Historical Preservation Officer. ORION has caused surveys of the areas covered by this agreement to be inspected and surveyed by qualified individuals to determine the presence of listed species or cultural sites. The survey results have been reviewed and accepted by DOW. Prior to engaging in any activity to change the locations of any of the facilities covered by this agreement, ORION shall consult with DOW and complete any surveys or inventories as maybe deemed appropriate. ORION will comply with the direction of the State Historical Preservation Officer or comply with the requirements of the Endangered Species Act and rules and regulations promulgated thereunder, including possible re-location of the proposed facilities. Any such re-location shall only be done after consultation with DOW and after having received DOW's written approval.

10. NOTICE OF HEAVY EQUIPMENT OPERATIONS. Pursuant to Paragraph 18 below, ORION shall give DOW verbal notice at least five (5) days prior to bringing heavy equipment onto the Property for the construction of Wells, drill sites, access roads, flow lines, gas or water lines and other associated production facilities.

11. WAIVER OF THIRTY DAY NOTICES. In regard to the Wells, DOW hereby waives the thirty (30) day advance notices required by the Colorado Oil and Gas Conservation Commission ("COGCC") Rule 305, as amended, and agrees to execute a separate waiver for filing with the COGCC if requested by ORION.

12. NOTICE TO TENANT(S). With respect to notices required to be given under COGCC's Rule 305, it shall be the responsibility of DOW to give notice of the proposed operations to any tenant farmer, lessee or other party that may own or have an interest in any crops or surface improvements that could be affected by ORION's proposed operations. As a courtesy to DOW, ORION will attempt to notify said third party prior to commencement of any operation, but shall be under no obligation to do so.

13. GATES. ORION shall install gates and locks on access roads constructed pursuant to this Agreement if requested in writing by DOW. Copies of the keys to the locks thereon shall be provided to DOW. DOW may also elect to attached its own locks, in which event such locks shall be arrange in such a way so as to provide ORION full access. Such gates shall be kept closed by ORION at all times except when entering or exiting the Property, and shall be kept locked by ORION at all times when personnel are not present on the Property. Under no circumstances shall ORION allow persons who are not employees, agents, or contractors of ORION to enter the Property beyond any locked gates on the access roads provided for herein. ORION will prohibit the operation of its, or its employees, or agents vehicles off of existing county roads and the roads covered by this agreement and will take all reasonable steps to prevent the operation of

vehicles by third parties off of existing county roads and the roads covered by this agreement.

14. **TERM.** This Agreement shall become effective when it is fully executed. With respect to ORION's rights and interests hereunder, this Agreement shall remain in full force and effect until either (i) ORION has plugged and abandoned pursuant to law all wells owned all or in part by ORION that are located on the Property and that are covered by this Agreement, and ORION has complied with the requirements of all applicable laws and regulations and this agreement pertaining to the removal of equipment, reclamation, cleanup and all other applicable provisions thereof, or (ii) ORION ceases to use the facilities to produce and transport natural gas, subject to force majeure, for a period of 366 consecutive days, or (iii) until terminated in writing by the parties hereto, or their successors and assigns.

15. **ADDITIONAL MITIGATION.** In addition to any payments for Normal and Abnormal Damages and other payments required by this Surface Use Agreement, to offset temporary surface disturbance and wildlife habitat disturbance, ORION agrees to perform onsite mitigation within the Garfield Creek State Wildlife Area. Specific onsite mitigation projects will be agreed upon by the DOW and ORION, identified to enhance habitat, with a minimum cost of \$40,000. Projects will be completed within one year of signature of the SUA unless agreed upon by both the DOW and ORION.

ORION agrees to limit development on the four subject pads included in this agreement to two drilling rigs within the GCSWA at any given time. ORION will consult with the DOW prior to any development on staging, sequencing, etc. to minimize fracturing of habitat and to minimize wildlife disturbance within the GCSWA.

16. **CAPTIONS.** The captions used in this Agreement are for convenience only and shall not limit the meaning of the language contained herein.

17. **SUCCESSION.** The covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the respective parties, and shall run with the Property until terminated pursuant to the provisions herein. References herein to "Sovereign" shall include its employees, agents, and contractors.

18. **SPECIAL PROVISIONS.** ORION and the State further agree to the covenants and conditions as set below.

(a) The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any

judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

(b) The signatories hereto aver that they are familiar with C.R.S. 18-8-301, et. seq., (Bribery and Corrupt Influences) and C.R.S. 18-8-401, et. seq., (Abuse of Public Office), and that no violation of such provisions is present.

(c) The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein.

(d) Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits, or protections provided to the State under the Colorado Governmental Immunity Act, §§ 24-10-101, et seq. C.R.S., as amended or as may be amended (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted). The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the State of Colorado, its departments, institutions, agencies, board, officials, and employees is controlled and limited by the provisions of §§ 24-10-101, et seq., C.R.S., as amended or as may be amended, and §§ 24-30-1501, et seq., C.R.S., as amended or as may be amended. Any provision of this Agreement, whether or not incorporated herein by reference, shall be controlled, limited, and otherwise modified so as to limit any liability of State to the above-cited laws.

(e) Orion shall indemnify, save, and hold harmless, the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Orion, or its employees, agents, subcontractors or assignees, pursuant to the terms of this Surface Use Agreement.

19. **NOTICES.** All written notices required or provided for in this Agreement shall be mailed to the other Party at its official address, United States mail, postage prepaid. For the purposes of this Agreement, the official addresses of the Parties shall be:

If to the State

Attn: Area Manager
Division of Wildlife
711 Independent Ave
Grand Junction, CO 81505
Telephone: 970/255-6100
Fax: 970/255-6111

If to Sovereign

Attn: Jess Peonio
Senior Operations Engineer
Orion Energy Partners, LP
1675 Broadway, Suite 2000
Denver, CO 80202
Telephone: 303/595-3030 x123

All verbal notices shall be given to the telephone number provided. Either Party may change its official address or telephone number by giving written notice of such change to the other Party as provided for above. Except as may otherwise be provided herein, all notices shall be effective upon receipt.

20. ENTIRE UNDERSTANDING. This Agreement constitutes the entire understanding of the Parties and there are no other provisions other than set forth herein and any changes in this Agreement shall be made in writing and signed by both ORION and the State in accordance with required procedures before the same shall be effective. In addition, this Agreement is not meant to limit (a) ORION's right to develop the oil and gas mineral estate underlying the Property, (b) the number of wells ORION can legally drill on the Property, or (c) DOW's ability to contest and object to any Additional Wells (and support facilities therefore) proposed by ORION for the Property.

ORION will coordinate bi-annual reviews of project activities with the DOW. Typically, these reviews will occur in March and November of each year. The focus of discussions during the review meeting will include, but not be limited to, the SUA, current operations activities, future development, concerns and any emergent issues.

21. COUNTERPARTS. This Agreement may be executed in counterparts, all of which shall constitute one Agreement, which shall be binding on all of the Parties. In the event of any disparity between the counterparts produced, the first recorded counterpart shall be controlling.

22. COMPLIANCE WITH RULES AND REGULATIONS. In addition to the terms and conditions of this Agreement, ORION shall also comply with all applicable rules and regulations of the Colorado Oil and Gas Conservation Commission ("COGCC"), including, without limitation, COGCC's Series 1000 Rules. If there is a conflict between this Agreement and any applicable COGCC Rule, or if COGCC Rules require stricter protections to the environment, public health, safety and welfare than this Agreement, then the COGCC's Rules shall prevail, unless specifically waived in writing by DOW and as may be allowed by COGCC. This Agreement does not constitute a waiver of any COGCC Rule unless specifically provided for herein. In particular, without limitation, this Agreement is not a waiver of COGCC Rule 1002 (Site Preparation), 1003

ORION ENERGY PARTNERS L.P.

Doug Harris

By: DP Harris

Vice President & Partner

ORION ENERGY PARTNERS L.P.

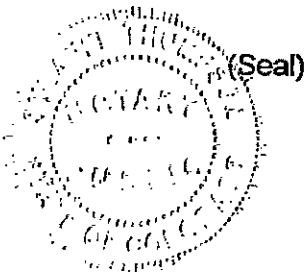
(STATE OF COLORADO)

(COUNTY OF Denver)

This instrument was acknowledged before me this 19th day of May 2009, by, Partner of Orion Energy Partners L.P., on behalf of the limited partnership.

My commission expires

02.10.2010



Suzanne Shaw
Notary Public

Exhibit A - Pad and Access

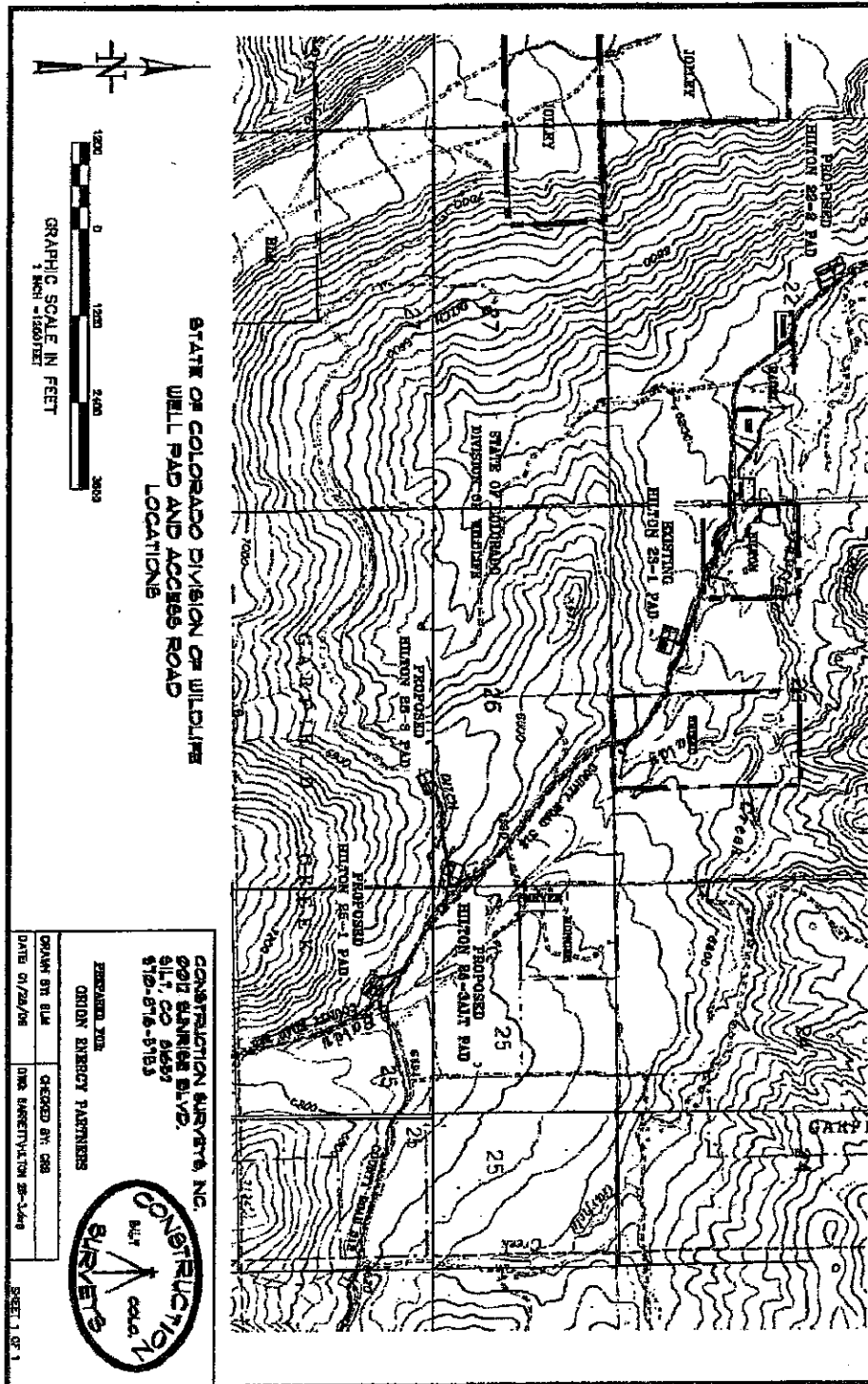


Exhibit B - Pipeline Routes

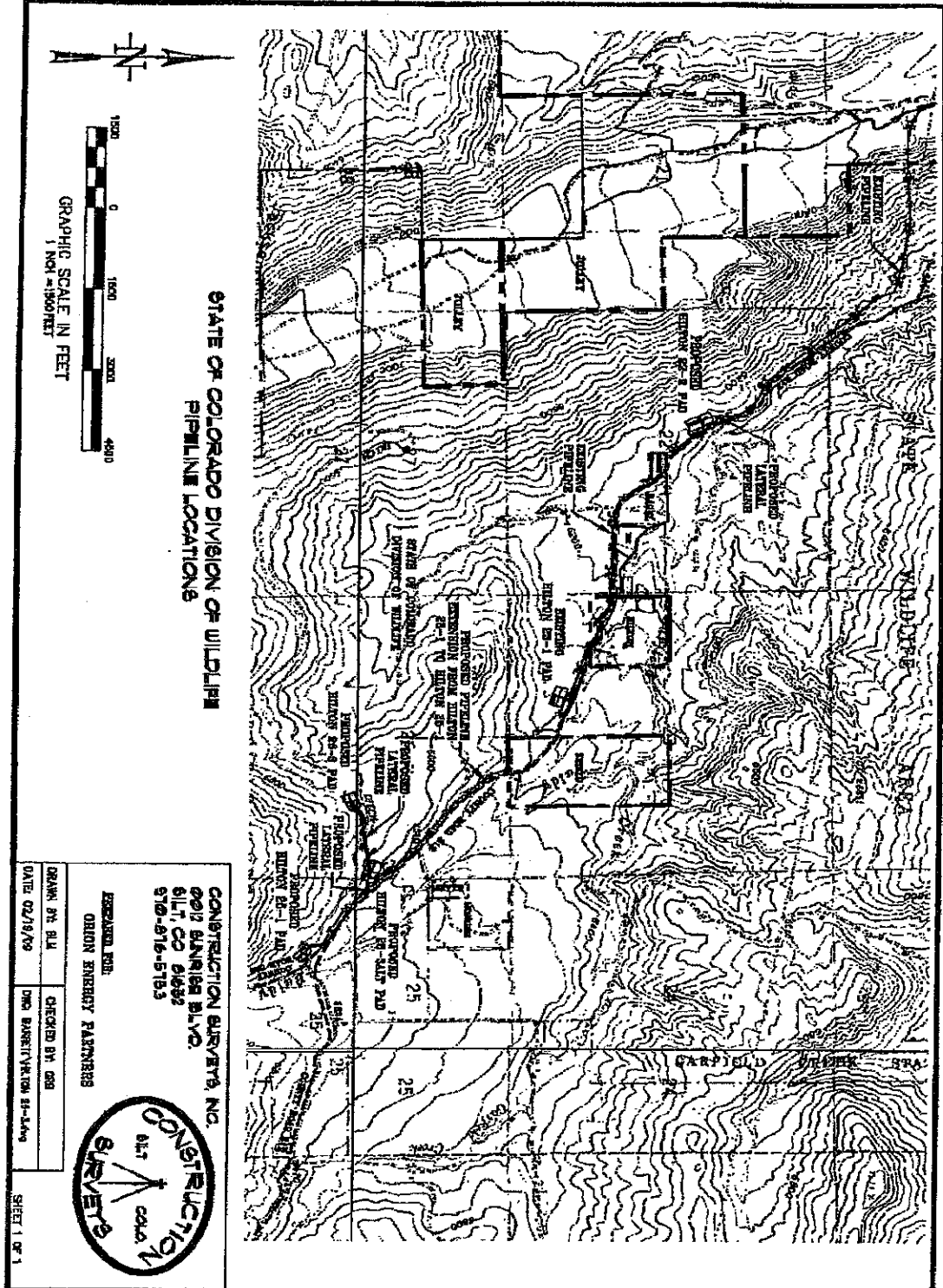
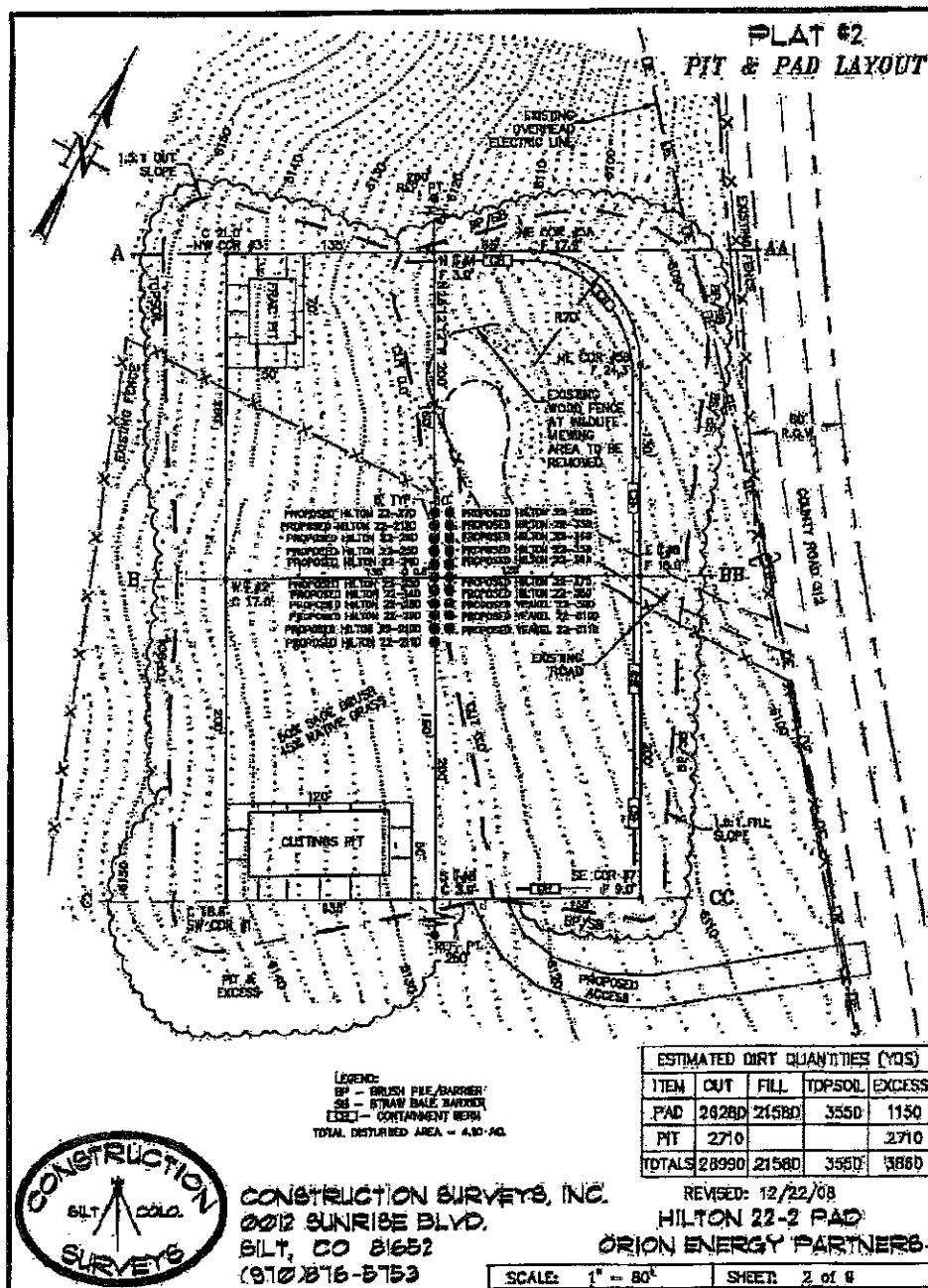
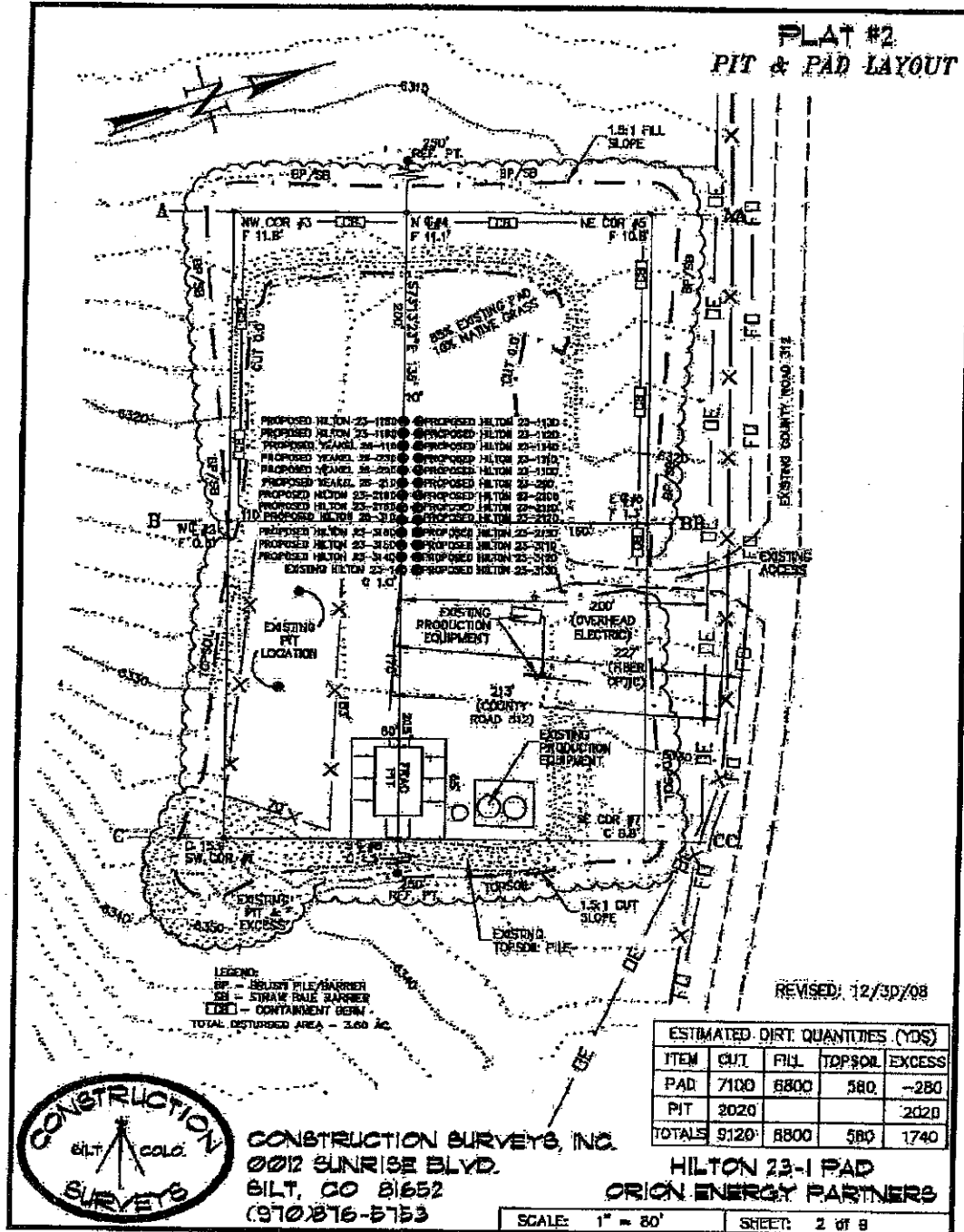
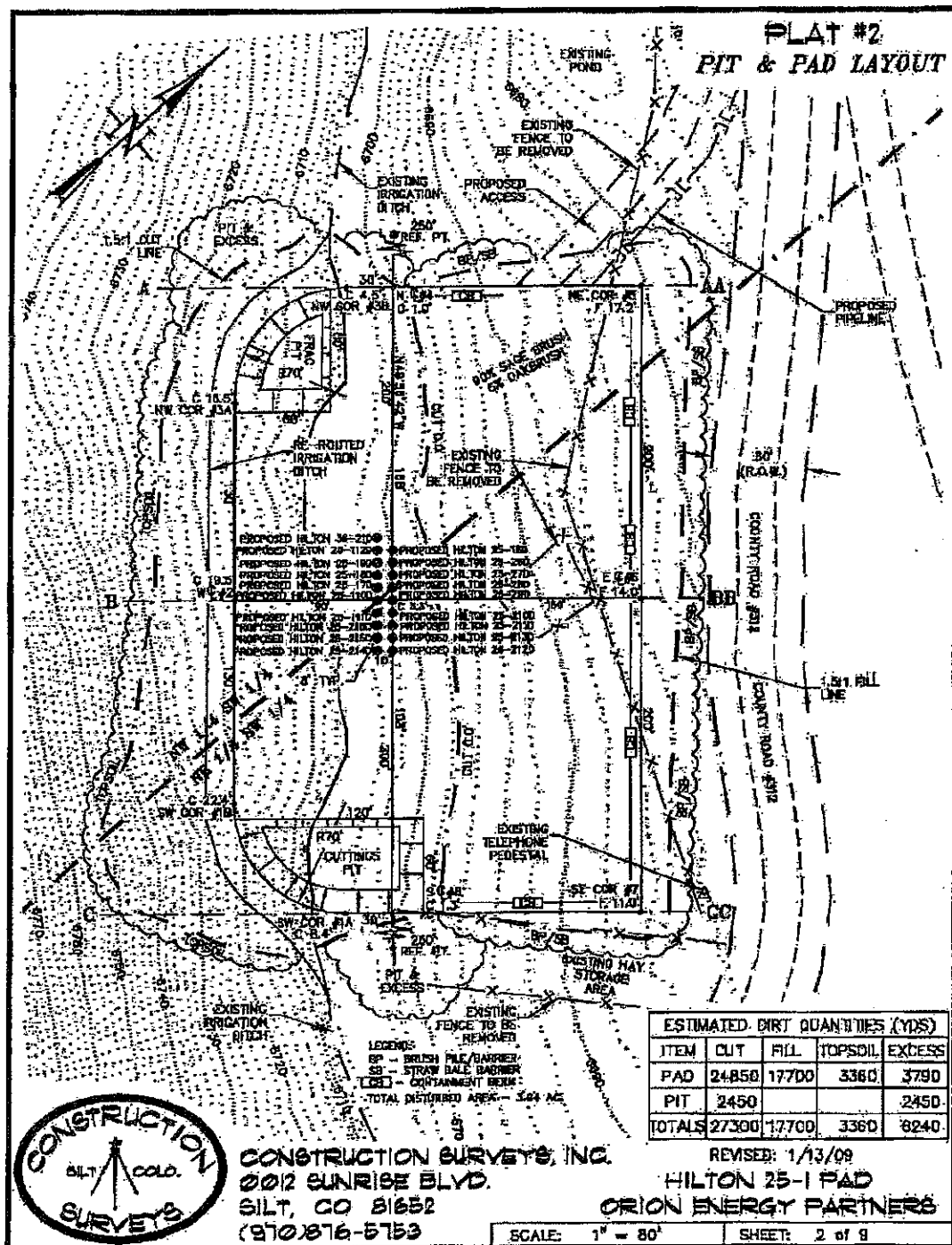


Exhibit C
Pad Layouts – Hilton #22-2, Hilton #23-1, Hilton #25-1, Hilton #26-3 & Hilton #26-3 Alternate



FLAT #2 PIT & PAD LAYOUT





**FLAT #2
PIT & PAD LAYOUT**

REVISD: 12/30/08

ESTIMATED DIRT QUANTITIES (YDS)

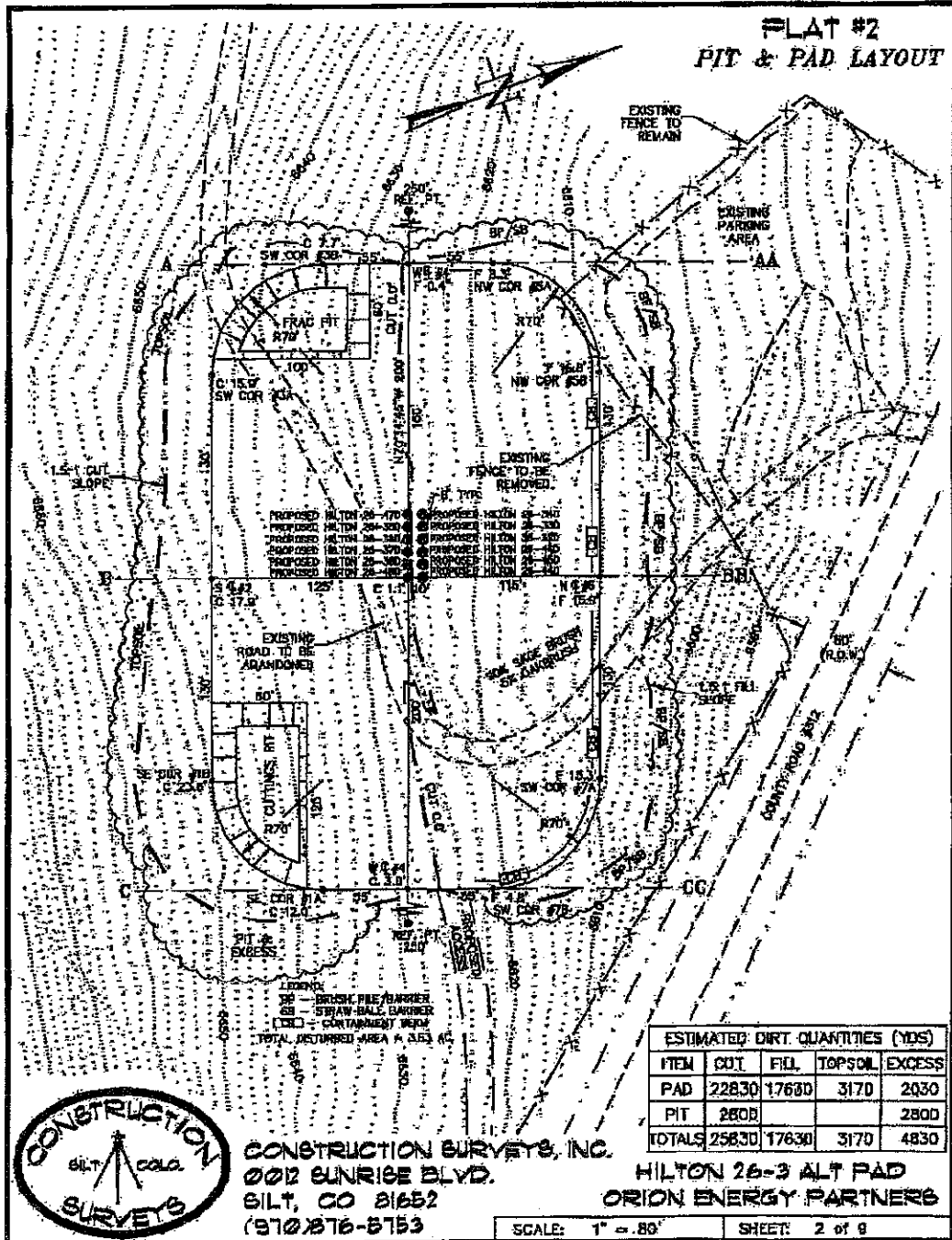
ITEM	CUT	FILL	TOPSOIL	EXCESS
PAD	18020	14940	2820	280
PIT	3140			3140
TOTALS	21160	14940	2820	3400

**HILTON 26-3 PAD
ORION ENERGY PARTNERS**

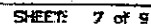
SCALE: 1" = 80'
SHEET: 2 OF 8

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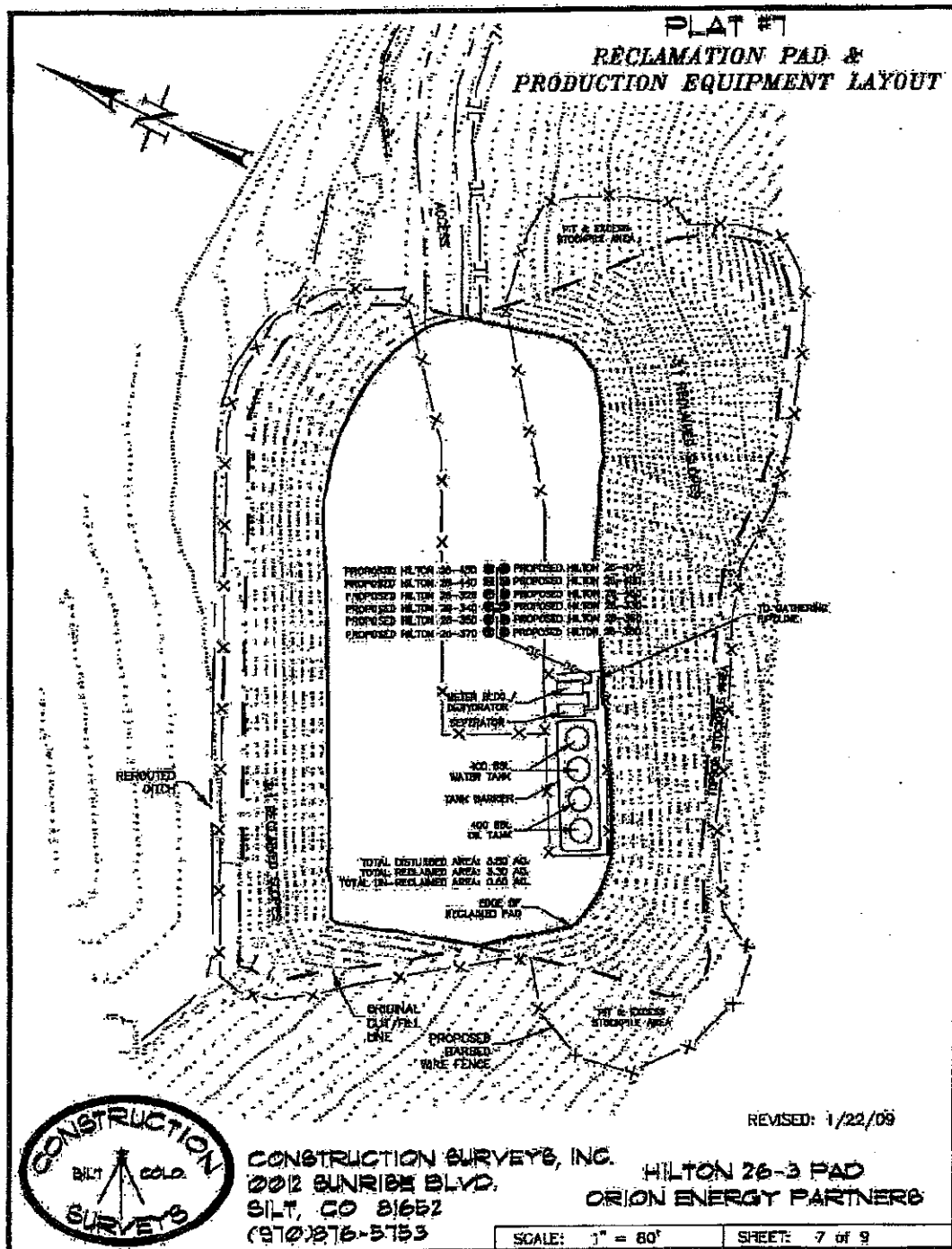
FLAT #2 PIT & PAD LAYOUT



Alternate



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PLAT #1
RECLAMATION PAD &
PRODUCTION EQUIPMENT LAYOUT

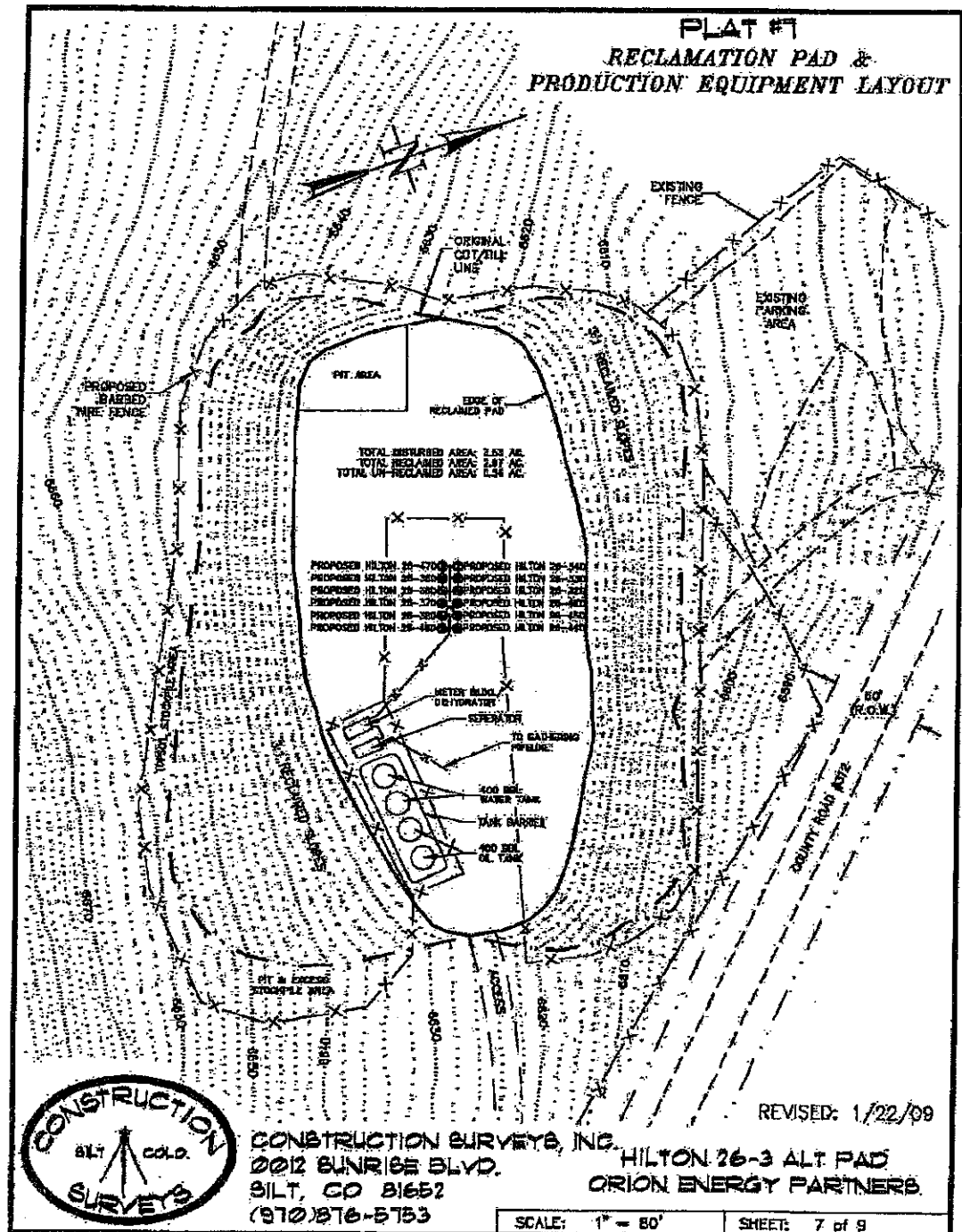


EXHIBIT E RECLAMATION PLAN

A. GENERAL RECLAMATION PRACTICES AND GUIDELINES

1.0 INTRODUCTION

1.1 Purpose

The purpose of the guideline is to describe prescribed methods of topsoil replacement, reseeding, erosion control measures and monitoring success.

The guideline is applicable to the construction of the gas line right-of-way (ROW), new or improved access roads, well pad sites and work spaces. Site specific requirements if any follow in section B.

1.2 Goals and Objectives

The short-term goals of reclamation are to control erosion, weed invasion and sedimentation, and minimize impact to adjacent land uses. Properly executed construction practices, optimum scheduling and timely construction will mitigate short-term impacts. Long-term goals include erosion and sedimentation control, protection of water resources and soils, and a return to pre-existing land uses and vegetative cover. The long-term goals will be met through implementations of the Reclamation Guideline. Monitoring during the construction and operational phases will ensure that goals are achieved.

2.0 RECLAMATION PROCESS

The following sections outline the sequential steps for reclaiming ROWs, roads, well sites and pads.

2.1 Regrading

Final grading and installation of erosion control measures will be completed after trenches have been backfilled. All non-essential access roads, hillsides, and beds and other areas where earth has been moved will be restored to approximate, as close as possible, the original contour of the land.

Proper compaction and re-contouring will be completed prior to re-top soiling. Where settling may be a problem, the backfill will be mounded over the trench approximately 0.5-foot to account for subsidence unless otherwise specified by the Division of Wildlife.

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2.2 Topsoil Replacement

Once sites have been re-contoured and compacted, topsoil will be redistributed over the entire disturbed area from which it is salvaged. Redistributed depths of topsoil will vary depending upon available stripping depths.

Topsoil will not be mixed with spoil material before or during replacement and only topsoil will be re-spread. Topsoil from unstripped areas will not be used to cover adjacent disturbances. Topsoil may not be handled during excessively wet conditions or at times when the ground or topsoil is frozen. Inspections will ensure soil conservation practices are followed, according to the guideline and specifications outlined.

Replaced topsoil will be left in a roughened condition to discourage erosion. Additional erosion control and soil stabilization may be required on steeper slopes, in areas of erodible soils, and in areas adjacent to or within drainage.

The length of time topsoil is stockpiled will be minimized, based on the proposed construction schedule.

2.3 Seedbed Preparation

The Contractor will scarify, till, or harrow the seedbed to a depth of 3 to 4 inches to enhance re-vegetation. Those sites where this method is not practical (e.g., steep slopes, rocky areas, etc.) will be dozer-tracked perpendicular to the slope or otherwise left with adequate roughness following topsoil placement to provide micro sites for seed germination, and reduce soil movement.

2.4 Re-fertilization

The Contractor will not apply fertilizer or lime on reclaimed sites because the majority of the topsoil will be stockpiled for the short-term; because fertilizer may enhance weed growth; and because these applications may cause eutrophication of wetland areas. Fertilizer will only be used if recommended by the Division of Wildlife.

2.5 Re-vegetation

The Division of Wildlife will provide to the Contractor a list of proper seeding mixtures, rates, seeding methods, and best timing. Section B of this exhibit will contain the seeding mixtures and information provided it has been developed prior to execution of the agreement.

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2.5.1 Species Selection

Selection of plant species for re-vegetation is primarily based on plant community composition and soil types, as well as establishment potential, growth characteristics, soil stabilizing qualities, palatability to wildlife and livestock, commercial availability, post-construction land use objectives and agency recommendations.

Seed will be purchased from a certified seed source in accordance with pure-live-seed specifications for seed mixtures and will be weed-free.

2.5.2 Re-vegetation Mixtures and Rates

The basic seed mixtures and seeding rates will be based on agency recommendations. Seeding rates are presented in pounds of pure-live-seed (PLS) per acres based on drill seeding application rates. Broadcast or hydro seeding rates will be roughly twice the drilled rates.

In some instances, seed mixtures may need to be modified as a result of limited species availability, poor seed quality, or site differences. These modifications will be made based on site-specific conditions and requirement. Modifications will only be undertaken with the concurrence of the Division of Wildlife.

All disturbed lands will be reseeded with the exception of wetlands. Disturbed wetland areas will rely on natural recolonization from reapplied topsoil and from rhizomes from adjacent areas. Seed and other propagules will naturally be present in the salvaged topsoil and will aid in this process.

Wetland and riparian areas will be delineated during year 2008 plant community inventories. Specific locations of wetland and riparian zones will be provided to the Company.

2.5.3 Seeding Methods

Either drill or broadcast seeding will be used for seed application, based on site-specific conditions. Drill seeding will be employed on level to gently sloping areas where coarse fragment content allows drilling operations. Seeding depth will reflect requirements of the specific seed mixtures. If necessary the seed bed will be firmed prior to drill seeding to avoid planting seed deeper than ½ inch.

Broadcast seeding will be employed on steep and/or rocky areas where drill seeding is not practical. Where possible, broadcast areas will be chained, harrowed or cultipacked to cover the seed. On small or inaccessible sites, hand

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raking will be used to cover seed. On steeper slopes where tilling or harrowing are not practical, the areas will be dozer tracked perpendicular to the slope prior to seeding, or otherwise left in a roughened state, to provide micro sites for seed germination.

2.5.4 Erosion Control

Erosion control methods will be utilized as needed and in concurrence with the Division of Wildlife. Areas of special concern include riparian areas, stream crossings and steep slopes in all canyons. Methods of erosion control to be utilized throughout the property as applicable include waterbars, sediment barriers and mulch applications using erosion control fabric, fiber, or mats.

2.5.4.1 Waterbars

Waterbars will be constructed on ascent/descent slopes and in areas of erodible soils to direct runoff from the disturbed areas to adjacent vegetation or rock, thereby minimizing erosional channels and sediment transport prior to the reestablishment of vegetation. Waterbars will be of sufficient size to survive 3 to 5 years and will be constructed at frequencies as directed by environmental conditions and road grade.

Waterbars will also be installed at the entrance and exit of all stream and wetland crossings. Topsoil will not be used in the construction of waterbars.

2.5.4.2 Mulch

Site specific applications of mulch will be applied on erodible soils to control erosion. Only straw or hay, which has been certified to be weed free, will be used. When hydro seeding is used for seed application, seed will be broadcast first, followed by hydro mulch which will be applied at a rate sufficient to provide 100 percent ground cover.

2.5.4.3 Stabilization of Steep Slopes, Erodible Soils and Stream Banks

In areas of erodible soils and on steep slopes in excess of 40 percent, erosion control fabric, fiber, or mats will be used to control erosion. These materials will be anchored immediately after placement. Alternately, stream beds and banks, and erodible soils will be stabilized using best stabilization practices as by CDOW. Rocks excavated during construction may be used for this purpose.

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2.5.4.4 Sediment Barriers

Sediment barriers will be installed at the entrance and exit of all streams, rivers, ponds, and wetlands to minimize sediment transport into these sensitive areas. Certified weed free straw and bales or prefabricated silt fence will be used for these installations.

2.5.4.5 Restricting Access

In order to prevent rutting, subsequent erosional problems and damage to riparian areas, measures will be taken to prevent unauthorized use of ROW's as a roadway.

2.6 Supplemental Plantings

All disturbed areas must be returned to a condition to be agreed upon by the Company and the Division of Wildlife as to the satisfactory standards for such reclamation. Reclamation practices in riparian areas will be prescribed on a case-by-case basis and may include planting of nursery stock or cuttings.

2.7 Above Ground Facilities

Following construction, all above ground facilities (e.g., structures, appurtenances, etc.) will be painted to blend with the natural surroundings. A reflective material may be used to reduce hazards that may occur when structures are near roads. Otherwise, a non-glare, non-reflective, non-chalking paint will be used. Basic color selections and applicable uses will be coordinated with the Division of Wildlife. General guidelines for color selection are presented below:

Forest green - Use on above ground facilities in areas that are in predominantly vegetated by trees.

Brown - Use on above ground facilities in areas that are predominantly vegetated by grass, in areas that are mostly un-vegetated, or in areas dominated by rock outcrops.

2.8 Cleanup

Following completion of reclamation, all trash, debris and other solid waste will be removed from the reclaimed areas. All material will be disposed of in the appropriate manner in existing authorized sanitary landfills. No solid waste will be buried on the property.

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3.0 RECLAMATION SCHEDULE

Re-vegetation activities will be determined in part by construction schedules and seasonal climatic conditions. Seeding and planting will be coordinated with other reclamation activities to occur as soon after seedbed preparation as possible. The goal is to complete reclamation during the construction period prior to winter. If weather conditions preclude re-vegetation of some areas during or immediately after the construction period, these areas will be re-vegetated as soon as access allows. These are general guidelines and may be revised based on seasonal climatic conditions, on-site conditions, and concurrence with the Division of Wildlife.

4.0 POST-CONSTRUCTION MANAGEMENT

4.1 Monitoring

Following construction and reclamation, a qualitative and quantitative monitoring program will be performed at least two times per year to determine the need for further reclamation. Operator shall establish permanent and monumented photo points and vegetation measurement plots or transects; monitor at least annually until plant cover, composition, and diversity standards have been met.

Monitoring will also include a quantitative estimate of percent cover annually at peak biomass (July or August) in both reclamation area and adjacent undisturbed land. This information should be compiled in an annual reclamation monitoring report which should also include species list of species established within the reclamation area. The monitoring program will be conducted for an unspecified length of time that will be determined through mutual agreement between the Surface User and Division of Wildlife unless specifically specified by the surface use agreement.

Monitoring will be conducted by a qualified specialist. Native herbaceous and woody species will be monitored to ensure they permanently re-vegetate. Any problem areas identified during inspections will receive additional re-vegetation efforts as soon as practical.

Erosion and sediment control measures will be assessed during construction and following re-vegetation to determine their effectiveness. Remedial actions will be taken for any problem areas identified.

4.2 Evaluating Reclamation Success

The Surface User will conduct reclamation evaluations in consultation with the Division of Wildlife. Reclamation evaluation will include assessment of stability and re-vegetation success. Determination of final re-vegetation success will be made by comparison of the re-vegetated area to reclamation objectives. Annual reviews of revegetation success will be conducted jointly by the Surface User and the DOW unless a different schedule is identified in Section B of this Exhibit or in the Surface Use Agreement. General evidence of success of re-vegetation efforts are:

4.3 Monitoring Report

An annual reclamation and weed management monitoring report shall be prepared. This report should contain a summary of reclamation activities, photographs from monumented locations (taken in July/August), and an estimation of percent cover, a summary of species diversity, presence of noxious weeds, erosion control and a species list.

- Post-disturbance plant cover is comparable to cover on adjacent undisturbed lands, is at least 80% ground cover, and is weed-free. DOW personnel will be included in the evaluation process. If there is a disagreement between ORION and the DOW as to the extent to which reclamation and revegetation has been successful, a 3rd party professional will make a determination based on the criteria noted for cover and diversity (80%).
- Species diversity is comparable to adjacent areas.
- Reproduction from reestablished plants is evident.

B. Garfield Creek Specific Reclamation Practices—Garfield Creek SWA:
DOW and ORION mutually agree that the general reclamation guidelines will be used and ORION will utilize the following specific reclamation techniques in the Garfield Creek SWA:

- At least six inches of surface soil including topsoil will be segregated from subsoil materials during ground clearance and replaced on top of the pipeline following construction. Soil coring should be done prior to well pad construction and design to determine depth of topsoil. If topsoil depth is greater than 6 inches, construction design should allow for large enough topsoil piles to accommodate all topsoil. All topsoil should be segregated from subsoil and stored in windrows no higher than 5 feet if practical.
- Recommended Seed Mix for Reclamation of Disturbed Areas in the Garfield Creek State Wildlife Area is as follows:

Recommended Seed Mix for Well Pad Sites, Pipelines and Meadows (outside of Hay Fields)

Scientific Name/Seeds per Pound	Common Name/Preferred Cultivar	% of Mix	Application Rate Lbs PLS/acre*
<i>Elymus lanceolatus</i>	Thickspike wheatgrass (Critana)	7	5-10
<i>Pascopyrum smithii</i>	Western wheatgrass	7	6-12
<i>Elymus trachycaulus</i>	Slender wheatgrass (VNS)	7	1-2
<i>Sanguisorba minor</i>	Small burnett (Delar)	3	20
<i>Onobrychis viciaefolia</i>	Sanfoin (VNS)	8	30-35
<i>Astragalus cicer</i>	Cicer milkvetch (CNS)	8	5
<i>Medicago sativa</i> spp.	Alfalfa (Ranger)	20	6-10
<i>Medicago sativa</i> spp.	Alfalfa (WL)	20	6-10
<i>Medicago sativa</i> spp.	Alfalfa (Ladak)	20	6-10
Total		100	

*Recommended rates from Pawnee Buttes Seed Company

Scientific Name/Seeds per Pound	Common Name/Preferred Cultivar	% of Mix	Application Rate Lbs PLS/acre*
<i>Medicago sativa</i> spp.	Alfalfa (Ranger)	35	6 - 10
<i>Medicago sativa</i> spp.	Alfalfa (WL)	35	6 - 10
<i>Medicago sativa</i> spp.	Alfalfa (Ladak)	30	6 - 10
Total		100	

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- All mulches and other plant material used on the SWA will be certified weed-free.
- Trees, shrubs and large surface rocks present within the Surface Use Area that must be removed for construction will be stored on the Surface Use Area during construction and replaced or scattered on the pipeline

ROW in a manner that will deter public vehicular travel down the pipeline while avoiding an "unnatural" appearance to the barriers created.

- Any fences gapped or removed will be repaired to pre-existing condition at completion of construction.

- Any roads or trails cut by the pipeline trench or which are rutted or otherwise damaged by construction activities will be repaired to pre-existing condition at completion of construction. Roads will not be expanded in width or improved substantially without specific CDOW approval.
- Appropriate erosion/storm water control measures in accordance with applicable Colorado Department of Public Health and Environment Water Quality Control Division requirements will be placed to prevent soil/spoil movement from the construction areas into adjacent areas or waterways.
- ORION will monitor the Surface Use Area at least biannually or more often if conditions warrant for invasion of noxious weeds. Weed control on the Surface Use Area will be conducted by spot treatment from the ground. The types of treatments and approvals required are governed by the provisions of Paragraph 6 of the Surface Use Agreement.

Upland reclamation will be evaluated during July during the first, third and fifth years following completion of road and pipeline construction. Reclamation success will be based on establishment of desired vegetation, ground coverage, and plant vigor. If the stipulated reclamation fails, DOW and ORION will mutually evaluate the cause and revise the reclamation plan based on the evaluation's findings.

B. SITE SPECIFIC REQUIREMENTS

Wildlife including migratory birds must be physically excluded from entry into reserve pits. Fencing and netting requirements will be stipulated by DOW.