

## SURFACE USE AGREEMENT

This Surface Use Agreement (“Agreement”) is effective this 27th day of April, 2007, and is by and between Kerr-McGee Oil & Gas Onshore LP (“KMG”) with an address of 1999 Broadway, Suite 3700, Denver, Colorado 80202 and Lafarge West, Inc., (“Lafarge”) with an address of 10170 Church Ranch Way, Suite 200, Westminster, Colorado 80021.

### Whereas:

A. Lafarge is the current landowner or current lessee, as the case may be, under one or more sand, gravel and aggregate mining leases that cover those certain tracts of land more particularly described on Exhibit A attached hereto, located in Weld County, Colorado, and hereinafter referred to collectively as the “Property.”

B. Surface ownership of the Property is subject to the rights of the oil and gas mineral leasehold estate in which KMG currently owns interests.

C. Lafarge has a mining permit from the State of Colorado, Division of Reclamation, Mining and Safety (“DRMS”), to extract sand and gravel from the Property and identified as Riverbend. Further, following the mining and reclamation of portions of the Property, Lafarge plans to use portions of the Property for water storage reservoirs.

D. Lafarge plans to mine the Property in two phases: the portions of the Property included in each phase are identified as Phase 1 and Phase 2 on Exhibit B and referred to hereinafter as the “Phase 1 Property” and the “Phase 2 Property,” respectively.

E. KMG currently operates four wells on the Phase 1 Property and five wells on the Phase 2 Property (“Existing Wells”) which, with respect to the Phase 1 Property, are specifically depicted on Exhibit B attached hereto, and KMG 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”); a reference herein to an “Existing Well” or “Existing Wells” shall mean the wells that are located on the Property at the time of the proposed activity.

F. This Agreement provides for the compatible development of the oil and gas estate and the surface estate and sets forth the rights and obligations of the parties with respect to the development of their respective interests in the Property, such rights and obligations to be binding upon the parties and their successors and assigns.

### Now Therefore:

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



**1. APPLICATION OF THIS AGREEMENT TO THE PHASE 1 PROPERTY AND PHASE 2 PROPERTY.**

At the time the parties entered into this Agreement, Lafarge had specific plans for the development of only the Phase 1 Property. For this reason, the plats attached to this Agreement show locations for Existing Wells, Future Wells, production facility locations and access routes and pipeline easements for only the Phase 1 Property. The parties agree that the terms in this Agreement shall apply to both the Phase 1 Property and the Phase 2 Property, and they shall enter into an amendment to this Agreement within one year from the effective date, which amendment shall identify the locations for Oil and Gas Operations Areas, Production Facility Locations, Pipelines, Petroleum Pipeline Easements (all as hereinafter defined) and access routes for the Phase 2 Property. The amendment shall provide for, among other things, areas that are comparable in size and configuration to those described herein for the Phase 1 Property and also for the payment by Lafarge of directional drilling costs for drilling windows that KMG relinquishes for the Phase 2 Property in an amount per well that is comparable to the amount outlined in the letter agreement between the parties referred to herein in section 21, but which amount shall be increased on January 1 of each year beginning on January 1, 2008, with such adjustment to be in accordance with the corresponding percentage increase in the Consumer Price Index published by the U.S. Department of Labor Bureau of Labor Statistics for the Denver-Boulder-Greeley Metropolitan Area. The amendment shall incorporate exhibits for the Phase 2 Property comparable to Exhibit B for the Phase 1 Property.

Lafarge covenants and agrees that it will not commence extraction or processing operations or any other construction or development activities on any portion of the Phase 2 Property until the parties have reached an agreement regarding surface use for the Phase 2 Property.

**2. REPRESENTATION AND WARRANTY REGARDING AUTHORITY TO BIND OWNERS OF THE PROPERTY.**

Lafarge represents and warrants that it has the right and authority to enter into this Agreement on behalf of and to bind each and every person or entity which owns an interest in the surface estate for all or any portion of the Phase 1 Property with respect to all of the terms, provisions and conditions in this Agreement, including, but not limited to, all of the waivers, consents and covenants included in sections 3.d., 4.e., 5.e., 5.m., 12 and 26. Lafarge covenants and agrees that, as a condition precedent to its commencing operations or any construction or development activities on any portion of the Phase 2 Property and that, prior to the time that the amendment to this Agreement described in section 1 is required to be entered into by the parties, Lafarge shall obtain the authority, waivers and consents from each and every person or entity that owns interests in the surface estate for the Phase 2 Property to the terms and conditions that are included in such amendment.

**3. AREAS RESERVED FOR THE EXISTING WELLS AND FUTURE WELLS; WELL LOCATIONS.**

a. Lafarge shall set aside and provide to KMG those portions of the Property hereinafter referred to as the "Oil and Gas Operations Areas," such areas as to Phase 1 being



depicted on the attached Exhibit B (3 through 8), four of which are the locations for the Existing Wells and the other nine of which are locations for Future Wells and other locations for certain related Production Facilities (as hereinafter defined). The Oil and Gas Operations Areas shall be made available to KMG in their present condition for all operations conducted by KMG in connection with any Well, including, but not limited to, drilling and production activities, workovers, well deepenings, recompletions, fracturing and the drilling of twinned and replacement wells. The Oil and Gas Operations Areas shall include the areas shown on Exhibit B (3 through 8), which are generally in the shape of a circle with a radius of 150 feet, except as otherwise reflected in the Exhibit.

b. KMG shall also have the right to locate, build, repair and maintain tanks, separators, dehydrators, compressors and all other associated oil and gas drilling and production equipment and facilities within the Oil and Gas Operations Areas.

c. KMG shall have the right to drill Future Wells and multiple Wells within the Oil and Gas Operations Areas, including horizontal and directional wells that produce from the Property and lands other than the Property; provided that, such other lands are pooled with all or any portion of the lands included in the Property.

d. As part of the consideration for this Agreement, Lafarge hereby waives its right to, and covenants that it will not protest or object to, any exception location or application to drill, redrill, deepen or recomplete any Well on the Property, so long as the Well is located within an Oil and Gas Operations Area.

e. KMG shall drill Future Wells as close to the center of the Oil and Gas Operations Area as is practicable, given the location of other Wells within the Oil and Gas Operations Area, geologic, regulatory and technical concerns, and any segregation of ownership of the oil and gas horizons, among other things. Lafarge shall not stockpile mined materials within a radius of 150 feet from Existing Wells.

#### **4. EXTRACTION OF SAND AND GRAVEL IN VICINITY OF OIL AND GAS OPERATIONS AREAS; SETBACK REQUIREMENTS.**

Lafarge reserves the option to mine the gravel within the Oil and Gas Operations Areas in accordance with the terms of this section 4.

a. In the event that Lafarge elects to mine the gravel within an Oil and Gas Operations Area, Lafarge shall notify KMG in writing sixty (60) days prior to commencing mining operations within the Oil and Gas Operations Area and shall place temporary concrete barriers around the Existing Wells, as directed by KMG, prior to the commencement of mining operations.

b. In the event that Lafarge elects to mine gravel within an Oil and Gas Operations Area with no Existing Well, Lafarge shall conduct and complete its mining operations within the Oil and Gas Operations Area as quickly as is reasonably practicable. In the event that KMG intends to drill a Well within the Oil and Gas Operations Area, it shall give written notice to LaFarge and meet at the site with Lafarge, as required by Colorado Oil and Gas Conservation



Commission ("COGCC") rules and regulations, and the parties shall coordinate mining operations with oil and gas operations; provided, however, KMG shall have priority to conduct oil and gas operations within the Oil and Gas Operations Area such that it may require Lafarge to temporarily cease mining operations or adjust the timing and location of such operations within the Oil and Gas Operations Area as necessary or convenient to conduct oil and gas operations in a safe and efficient manner.

c. In the event that Lafarge elects to mine gravel within an Oil and Gas Operations Area with an Existing Well or Wells, Lafarge shall conduct mining operations within the Oil and Gas Operations Area by excavating pie shaped wedges of gravel and aggregate and thereafter backfilling and compacting the area with overburden or other suitable material prior to excavating the next pie shaped area; provided, however, in no event shall Lafarge mine within ninety (90) feet of an Existing Well and, provided further, that in no event shall more than one quarter circle segment of the pie shape be excavated at any one time.

d. Excavation within the Oil and Gas Operations Areas will be coordinated with KMG in a mutually acceptable manner so as to avoid conflict with KMG's oil and gas operations and to ensure there is an appropriate safety plan and interim emergency procedures. Lafarge will bear all costs associated with such mining operations, including permanent or temporary rerouting and replacement of access roads, and flowlines and utility lines in order to prevent unnecessary interruption of production from any Well. In addition, Lafarge and its successors and assigns shall defend, indemnify and hold KMG harmless from any and all damage, loss and liability, including attorney's fees, incurred by KMG as a result of Lafarge's operations within the Oil and Gas Operations Areas and Production Facility Locations (as hereinafter defined). Upon completion of mining operations, Lafarge shall fill and level the mined areas to create an even grade throughout the Oil and Gas Operations Area and/or Production Facility Location.

e. Lafarge will not locate any lot line or any building, structure or other improvement within any Oil and Gas Operations Area or Production Facility Location. Lafarge understands and acknowledges that the COGCC has rules and regulations that apply to the distance between a wellhead and public roads, production facilities, building units and surface property lines, among other things. In order to give full effect to the purposes of this Agreement, Lafarge hereby consents to and waives its right to object to the location of any Wells and Production Facilities on the basis of the setback requirements in the rules and regulations of the COGCC, as they may be amended from time to time. Lafarge further and similarly consents to and waives its right to object to any other state or local setback requirements or other requirements or regulations that are or become inconsistent with this Agreement or that would prohibit or interfere with the rights of KMG, its successors and assigns, to explore for and produce the oil and gas in accordance with this Agreement. KMG or its successors and assigns may cite the waiver in this section in order to obtain a location exception or variance under COGCC rules or from any other state or local governmental body having jurisdiction; provided, however, Lafarge shall not be required to enlarge the amount of the surface area of an Oil and Gas Operations Area to accommodate the location exception or variance. Lafarge will provide KMG, or its successors and assigns, with whatever written support KMG may reasonably require to obtain permits from the COGCC or any local jurisdiction and will reasonably cooperate at no



material cost to Lafarge in any efforts of KMG or its successors and assigns to obtain such permits.

## 5. GATHERING LINES AND FLOWLINES.

a. Subject to the terms in this Agreement, KMG has a continuing right and entitlement to own, operate, maintain, repair and replace all existing and future flowlines, gathering lines and other pipelines that may be necessary or convenient to its operations on the Property ("Pipelines"). Except as may be otherwise agreed upon between the parties, the construction and burying of Pipelines shall be at the sole cost and expense of KMG or its gas purchaser.

b. Although this Agreement identifies the locations of existing and future pipelines and pipeline easements, nothing herein limits the right of KMG to make well connections to Wells at other locations in the event of circumstances due to mining operations, water storage or reservoir operations, topographic matters or any similiar circumstance.

c. KMG shall have the right to lay Pipelines within the "Petroleum Pipeline Easements" depicted on Exhibit B (3 through 8) or at such other locations as may be mutually agreed to in writing by the parties. Except for those portions of the Petroleum Pipeline Easements that are identified on Exhibits B (3 through 8) as specifically being more than thirty (30) feet in width, Petroleum Pipeline Easements shall be fifty (50) feet in width for construction, installation, and relocation operations and reduced to thirty (30) feet in width for post-construction usage. Flowline easements shall be thirty (30) feet in width for all operations.

d. Current development plans for Lafarge require the relocation of certain Pipelines that are currently located on the Phase 1 Property as depicted on Exhibit B (3 through 8) and identified as "Petroleum Pipelines to be Abandoned" or "Existing Petroleum Pipeline Easements and Access Roads to be Abandoned" (the "Existing Pipelines") which the parties agree shall be relocated to the locations depicted on Exhibit B (3 through 8) and identified as "Petroleum Pipeline Easements and Access Roads." Lafarge shall have the right to make written requests to KMG to relocate the lines to be abandoned; provided, however, all costs (including a 15% markup for such costs as compensation for administrative, supervision and overhead costs) of all relocations shall be borne by Lafarge. Lafarge and KMG shall enter into a pipeline relocation agreement prior to the relocation of all or any portion of an Existing Pipeline. The parties shall cooperate with each other to implement pipeline relocations and shall not unreasonably interfere with the operations of the other party. KMG shall perform the pipeline relocations.

e. Lafarge represents and warrants that the lands on which the Oil and Gas Operations Areas, Production Facility Locations, Petroleum Pipeline Easements and Access Roads are to be located are not lands which have been designated as wetlands or other similar designation by any federal, state or local jurisdiction or any other regulatory authority.

f. Prior to the time that KMG commences drilling a Future Well, and in the event that it would be convenient for KMG to hook up the Well to an Existing Pipeline which has not at the time been abandoned hereunder, KMG and Lafarge shall agree prior to the commencement of drilling operations that Kerr-McGee shall either: i) connect the Well to an Existing Pipeline;



or ii) install the Pipeline in a Petroleum Pipeline Easement and Access Road, at the option and expense of Lafarge.

g. Lafarge's operating plans anticipate that roads may cross over the Pipelines. For any Pipeline now existing or hereafter constructed within a Petroleum Pipeline Easement, Lafarge agrees to abide by the General Guidelines for Design and Construction Activities On or Near Kerr-McGee Gathering LLC and Kerr-McGee Rocky Mountain Corporation Pipelines and Related Facilities revised 3-2004 attached as Exhibit C.

h. Lafarge shall not disturb the existing cover over Pipelines during Lafarge's operations on the Property, except that: i) when crossing Pipelines with heavy equipment, such as earth moving equipment, Lafarge shall maintain a minimum of four (4) feet and a maximum of six (6) feet of dirt over Pipelines, in addition to the then existing cover over the Pipeline; and ii) when crossing Pipelines with light trucks and equipment, Lafarge shall maintain a minimum of two (2) feet and a maximum of six (6) feet of dirt coverage over the then existing cover over the Pipeline. The depth of cover over Pipelines shall not be reduced or drainage patterns over Pipelines altered without written approval from KMG.

i. KMG may install and maintain markers on the Petroleum Pipeline Easements, and KMG shall mark its flowlines at locations as reasonably requested by Lafarge.

j. Lafarge will not conduct or cause to be conducted extraction operations of any kind, including sand, gravel and aggregate mining operations, that are within twenty-five (25) feet from a Pipeline unless an engineer licensed in the State of Colorado and with expert knowledge in the area of soils, opines in a soils stability report, that a setback that is less than twenty-five (25) feet will be sufficient to preserve the integrity of the Pipeline. In such case, upon completion of extraction operations, Lafarge shall backfill and level the area that is within twenty-five (25) feet from the Pipeline. Notwithstanding anything herein to the contrary, Lafarge shall in no event conduct extraction operations closer than fifteen (15) feet from any Pipeline without the prior written approval of KMG.

k. Lafarge shall not stockpile soil over any Pipeline.

l. Utility crossings shall have a minimum of eighteen (18) inches vertical separation from Pipelines. Parallel utilities shall maintain a minimum of ten (10) feet of separation between the utilities and the Pipelines, unless KMG consents to a lesser distance, which consent shall not be unreasonably withheld. For example, it would not be unreasonable to withhold consent because of safety or operational concerns. Lafarge agrees to request all utility companies to contact KMG prior to laying lines parallel to Pipelines.

m. Lafarge shall not permit the construction of any temporary or permanent buildings, structures or other improvements or facilities within or over the Petroleum Pipeline Easements or the Pipelines. Lafarge shall not plant trees or shrubs over the Petroleum Pipeline Easements and Pipelines.

n. Lafarge shall provide to KMG a grant from the applicable owners of the surface of the specific portions of the Property for the Petroleum Pipeline Easements at the time KMG requests the grant and at no cost to it; provided, however, in any event and if the grant has not already been made, Lafarge shall provide KMG with an executed and acknowledged Pipeline Right of Way Grant in the form attached hereto as Exhibit D prior to the commencement of any pipeline installation or relocation.



6. ACCESS.

a. Lafarge shall provide KMG with continuous access to all Oil and Gas Operations Areas, Production Facility Locations, Petroleum Pipeline Easements and Pipelines at all times. Except for access roads to be built to access Oil and Gas Operations Areas where no wells are located at the time of this Agreement, access roads to be used by KMG will either be the roads it currently uses or those that Lafarge constructs at its sole cost and expense as relocated roads as part of its development of the Property; provided, however, no access road may be closed by Lafarge until an acceptable replacement access route is available to KMG for use.

b. Except as may be otherwise provided in subsection 6.a., KMG agrees to access the Property and the Oil and Gas Operations Areas along the routes depicted on the Exhibit B (3 through 8). Access to the Oil and Gas Operations Areas may be changed by mutual agreement of Lafarge and KMG; provided, however, all costs and expenses of such relocations shall be borne by Lafarge, except for any relocation that is requested by KMG.

c. Lafarge shall maintain and keep access roads that are jointly used by Lafarge and KMG in a condition and state of repair that serves the needs of Lafarge. In the event that joint access roads need to be improved in order to serve the needs of KMG, the parties agree to cooperate to allow KMG to construct the improvements, such improvements to be at the sole cost and expense of KMG. Neither KMG nor Lafarge shall unreasonably interfere with the use by the other of access roads.

d. Lafarge shall obtain and pay the costs to obtain from the local jurisdiction, as necessary, permits for curb cuts as deemed necessary by KMG. Said curb cuts shall be forty (40) feet in width.

e. Construction and Width of Access Roads.

(1) If Lafarge relocates an existing road being used by KMG for access to an Oil and Gas Operations Area, such relocated road shall be built to at least the quality of the road it replaces.

(2) Access roads or portions of access roads that are jointly used by KMG and Lafarge shall be thirty (30) feet in width. If Lafarge improves or paves such joint-use roads for regular or extended use, Lafarge shall construct or improve them so as to withstand the weight of oilfield equipment. Specifically, in such case, Lafarge shall construct the roads so that they can be used to withstand the weight of 110,000 pounds and 28,000 pounds per axle.

(3) KMG shall be responsible for construction of the portions of roads to the locations shown on Exhibit B to Oil and Gas Operations Areas for Future Wells where Lafarge does not intend to construct roads for its operations. Such access roads or portions of access roads that are used exclusively by KMG shall be generally thirty (30) feet in width, and KMG shall install and maintain them to COGCC standards that apply to oil and gas operations.

f. Lafarge agrees that it will not mine or extract materials from any portion of the access roads identified on Exhibit B (3 through 8), or those access roads that may be otherwise mutually agreed upon by the parties, without the written consent of KMG. Lafarge agrees to post



and enforce a ten (10) mile per hour speed limit along all stretches of access roads that are jointly used by KMG and Lafarge.

**7. BATTERIES AND EQUIPMENT/ PRODUCTION FACILITY LOCATIONS/  
ELECTRICAL SERVICE LINES.**

KMG shall have the right to locate, build, repair and maintain tanks, separators, dehydrators, compressors and other equipment ("Production Facility" or "Production Facilities") reasonably appropriate for the operation and production of Existing Wells and Future Wells within the Oil and Gas Operations Areas and also within the three locations depicted on Exhibit B and generally located in the center of the SW/4SW/4 of Section 18, the center of the SW/4 of Section 19 and the center of the SW/4NW/4 of Section 19 ("Production Facility Locations.")

With respect to Production Facilities other than flowlines and Pipelines:

- a. KMG shall install and maintain, at its sole cost and expense, all fences around Wells and Production Facilities in compliance with the Rules and Regulations of the COGCC.
- b. KMG shall install and maintain, at its sole cost and expense, all gates and locks reasonably necessary for the security of the Wells and Production Facilities.
- c. KMG shall paint production facilities for the Wells, including wellhead guards, with a color of paint that is approved by the COGCC.
- d. Lafarge shall not prevent or inhibit access by KMG to the Oil and Gas Operations Areas and Production Facility Locations or prevent or inhibit KMG's operations within the Oil and Gas Operations Areas or Production Facility Locations by landscaping or other improvements, unless otherwise agreed upon in writing between Lafarge and KMG.
- e. Lafarge shall place temporary concrete barriers around Production Facilities, as directed by KMG, before the commencement of mining operations within an Oil and Gas Operations Area or Production Facility Location. In no event shall Lafarge mine within ninety (90) feet of Production Facilities or stockpile mined materials within a radius of fifty (50) feet of Production Facilities.
- f. The parties understand and acknowledge that an electrical service line owned and/or operated by Public Service Company of Colorado currently crosses a portion of the Phase 1 Property described as the SW/4SW/4 of Section 18, Township 1 North, Range 66 West and identified on Exhibit B (8 of 8) and hereinafter referred to as the "SW/4SW/4 Location." In the event and at the time that KMG notifies Lafarge that it intends to commence the drilling of a Well in the SW/4SW/4 Location, upon the written request of KMG, Lafarge shall relocate the service line or cause such service line to be relocated at the expense of Lafarge and at a



mutually agreeable location. In the event that Lafarge fails or refuses to relocate the service line, at the option of KMG, the SW/4SW/4 Location shall either: i) expand by an additional 150 feet within the legal drilling window; or ii) be relocated within the legal drilling window and include an area that is a circle with a radius of at least 150 feet.

**8. NOTICE OF FUTURE OPERATIONS.**

KMG shall provide at least seven (7) days prior written notice to Lafarge of operations in connection with reworking, fracturing, deepening or recompletion operations on Existing Wells and Future Wells; provided, however, KMG shall provide at least thirty (30) days prior written notice to Lafarge of the initial drilling of Future Wells. Regardless of the foregoing notice requirements, KMG shall have immediate access to all Production Facilities, Pipelines and Wells in the event of an emergency.

After receipt of the above notice, but not less than five (5) working days prior to the date that KMG plans to commence drilling operations within an Oil and Gas Operations Area, KMG or Lafarge may request an on-site meeting. The purpose of the meeting shall be for KMG to inform Lafarge of the proposed oil and gas drilling operations and to coordinate site access, hazards, barricades, restoration or any other issues that may affect the use and development of the Property by Lafarge.

**9. COMPLIANCE WITH SAFETY REGULATIONS.**

KMG understands that the surface mining operations of Lafarge on the Property are subject to certain Mine Safety and Health Administration ("MSHA") regulations. KMG agrees that, while conducting its oil and gas operations on the Property, it will use best efforts to comply with reasonable MSHA requirements that Lafarge notifies KMG in writing are applicable to KMG's operations on the Property. KMG agrees to inform its contractors and subcontractors about such requirements, but shall have no liability for the failure of such contractors and subcontractors to comply with the requirements.

**10. DRILLING AND COMPLETION OPERATIONS.**

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

**11. SHUT-IN OF WELLS.**

In the event that Lafarge interferes with the operations of KMG on the Property so that KMG, in its discretion, is required to shut-in a Well or Wells or is otherwise prevented from repairing or returning a Well or Wells to production, then Lafarge shall pay to KMG the value of the average daily production for the Well or Wells that are shut-in (based upon the prior month's average production rates for the Well) and all other damages or losses that KMG incurs as a result of such interference.



**12. GOVERNMENTAL PROCEEDINGS.**

Lafarge acknowledges the rights of KMG to conduct oil and gas operations on the Property in accordance with this Agreement and shall not object to or oppose KMG in any agency or governmental proceedings, including, but not limited to, the COGCC, Weld County, or other governmental entity related to the operations of KMG on the Property, including, but not limited to drilling, workovers, well deepenings and recompletions; provided that, the position of KMG in such proceedings is consistent with this Agreement.

**13. MINING PLANS.**

Lafarge has provided copies to KMG of its Mining Permit and the engineering structural report prepared in connection with the Mining Permit (the "Plans"). KMG acknowledges receipt of the Plans and does not object to the Plans; provided, however, KMG does not in any way thereby either waive its rights under this Agreement or the obligations or agreements of Lafarge in this Agreement.

**14. RESTRICTED USE OF THE SURFACE BY KMG.**

Except for the Oil and Gas Operations Areas, Production Facility Locations, Petroleum Pipeline Easements, Pipelines and the access roads provided for in this Agreement, KMG shall not occupy the surface of the Property, except in the events of an emergency or for reasonable incidental, temporary and non-damaging activities, for which KMG shall be responsible for any damages that it causes that may occur to the Property.

**15. LIMITATION OF LIABILITY, RELEASE AND INDEMNITY.**

a. No party shall be liable for, or be required to pay for, special, punitive, exemplary, incidental, consequential or indirect damages to the other party for activities undertaken within the scope of this agreement.

b. Except as to claims arising out of pollution or environmental damage (which claims are governed by section 16 below) or out of other provisions of this Agreement (which claims shall be governed by the terms of this Agreement), each party shall be and remain responsible for its own liability for all losses, claims, damages, demands, suits, causes of action, fines, penalties, expenses and liabilities, including without limitation, attorneys' fees and other costs associated therewith (all of the aforesaid herein referred to collectively as "Claims"), arising out of or connected with each such party's ownership or operations on the Property, no matter when asserted, subject to applicable statutes of limitations. Each party shall release, defend, indemnify and hold the other party, its officers, directors, employees, successors and assigns, harmless against all such Claims. This provision does not, and shall not be construed to, create any rights in persons or entities not a party to this Agreement, nor does it create any separate rights in parties to this Agreement, other than the right to be indemnified for Claims as provided herein.



c. Upon the assignment or conveyance of a party's entire interest in the Property, that party shall be released from the indemnification in section 15.b. above, for all actions or occurrences happening after such assignment or conveyance.

#### 16. ENVIRONMENTAL INDEMNITY.

The provisions of section 15 above, except for section 15.a., shall not apply to any environmental matters, which shall be governed exclusively by the following, subject to the limitations of section 15.a. above:

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

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

c. Environmental Indemnification. KMG shall defend, indemnify and hold harmless Lafarge, its successors and assigns, from Environmental Claims relating to the Property that arise out of KMG's oil and gas leasehold under the Property or operations on the Property; provided, however, KMG shall not be liable for the acts or omissions of any assignee to which it assigns oil and gas leasehold interests to the extent of the assignment. Lafarge shall defend, indemnify and hold harmless KMG, its successors and assigns, from Environmental Claims relating to the Property that arise out of its ownership, leasehold interests, operations or development of the Property.

#### 17. EXCLUSION FROM INDEMNITIES.

The indemnities of the parties herein shall not cover or include any amounts for which the indemnified party is actually reimbursed by any third party. The indemnities in this Agreement shall not relieve any party from any obligations to third parties.

#### 18. NOTICE OF CLAIM FOR INDEMNIFICATION.

If a Claim is asserted against a party for which the other party would be liable under the provisions of section 15 or section 16 above, it is a condition precedent to the indemnifying party's obligations hereunder that the indemnified party give the indemnifying party written



notice of the Claim setting forth all particulars of the Claim, as known by the indemnified party, including a copy of the Claim (if it is a written Claim). The indemnified party shall make a good faith effort to notify the indemnifying party within ten (10) days of receipt of a Claim and shall effect such notice in all events within such time as will allow the indemnifying party to defend against such Claim. An indemnifying party shall not be obligated to reimburse an indemnified party for amounts paid in settlement of an indemnified claim unless the indemnifying party has agreed to the settlement, which agreement shall not be unreasonably withheld or delayed.

**19. REPRESENTATIONS.**

Each party represents that it has the full right and authority to enter into this Agreement with respect to the surface estate or leasehold interests or oil and gas leasehold interests it owns in the Property. KMG does not represent that it has rights to settle matters for any mineral owner or any other oil and gas lessee for the Property, and this Agreement shall only apply to and bind KMG as to its oil and gas leasehold interests in the Property.

**20. INDIVIDUAL LIABILITY OF PETROLEUM LESSEES.**

The liability of KMG to perform any obligation hereunder or to comply with any agreement included herein or with any state or local rule or regulation is individual and not joint or collective. This Agreement does not create a joint venture or partnership between or among KMG and any other party which owns or acquires oil and gas leasehold interests in the Property.

**21. LETTER AGREEMENT.**

Concurrently with the execution of this Agreement, the parties have executed a letter agreement which delineates the parties obligations with respect to directional drilling ("Letter Agreement"). In consideration of the agreement of KMG to restrict its use of the surface estate for the Property as set forth in this Agreement, Lafarge agrees to compensate KMG in accordance with the terms of the Letter Agreement.

**22. SUCCESSORS AND ASSIGNS.**

The terms, covenants, and conditions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, successors and assigns for KMG shall be limited to only those assignees under the oil and gas leases that are owned by KMG.

**23. TERM.**

This Agreement shall become effective as of the date written above and shall remain in full force and effect until the latest to occur of the following: i) all of KMG's oil and gas leasehold interests in the Property have expired or are terminated, and KMG has plugged and abandoned all Wells it operates on the Property and complied with all reclamation and other requirements in its oil and gas leases and of the COGCC and other entities having jurisdiction; or ii) all of Lafarge's sand, gravel and aggregate mining leasehold interests in the Property have expired or are terminated (as to the portion of the Property leased by Lafarge), and Lafarge has complied with all reclamation and other requirements in its mining leases and Mining Permit and



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with all other applicable provisions in the mining leases, Mining Permit and state and local permits and rules and regulations. At the time this Agreement terminates, the parties shall execute releases that state that this Agreement no longer applies to the Property, except with respect to the indemnities in this Agreement, which indemnities shall survive termination to the extent provided herein.

**24. NOTICES.**

Any notice or other communication required or permitted under this Agreement shall be given in writing by any of: i) personal delivery; ii) expedited delivery service with proof of delivery; iii) United States mail, postage prepaid, and registered with certified mail with return receipt requested; or iv) prepaid telecopy or fax, the receipt of which shall be acknowledged, addressed as follows:

**If to KMG:**

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

**Lafarge:**

Lafarge West, Inc.  
10170 Church Ranch Way, Suite 200  
Westminster, Colorado 80021  
Attention: Director of Lands

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

**25. RECORDING.**

This Agreement and any amendments shall be recorded by KMG, and KMG shall provide Lafarge with copies showing the recording information as soon as practicable thereafter.

**26. SURFACE DAMAGES; WAIVER OF PAYMENTS.**

In consideration of the respective rights, obligations and benefits of the parties as outlined herein, this Agreement shall constitute a surface use or surface damage agreement as described or provided for in any current or future rule or regulation of the COGCC or any local jurisdiction, state statute or at common law and in any oil and gas lease.

Lafarge hereby waives all surface damage payments or other such payments for the use of the Property or portions thereof pursuant to any current or future COGCC or local regulation, state statute, common law or oil and gas lease or agreement for each and every well and relate wellsite that is or will be drilled and located within the Oil and Gas Operations Areas and for Production Facility Locations and Pipelines and Petroleum Pipeline Easements and access roads.



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. The term "surface damages payments" as used herein shall be given the meaning commonly used in the oil and gas industry.

**27. NO PRIVATE RIGHT OF ACTION.**

Nothing in this Agreement creates a private right of action under any state statute or state or local rule or regulation, including the regulations of the COGCC and the provisions of the Colorado Oil and Gas Conservation Act at C.R.S. 34-60-101 et.seq.

**28. CONSTRUCTION.**

The parties have participated jointly in the negotiating and drafting of this Agreement. In the event ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties. and no presumption or burden of proof shall arise favoring or disfavoring either party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including, without limitation.

**29. 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.

**30. ENTIRE AGREEMENT.**

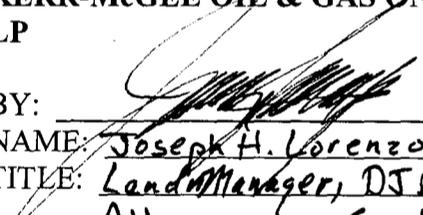
This Agreement and the letter agreement referenced in section 21 set forth the entire understanding between the parties regarding the matters addressed herein, and supersedes any previous communications, representations or agreement, whether oral or written. This Agreement shall not be amended, except by written document signed by the parties.

**31. EXECUTION AND BINDING EFFECT.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute one and the same instrument. This Agreement is executed by the parties on the dates set forth in the acknowledgements, but to be effective on the date set forth above.

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

**LAFARGE WEST, INC.**

BY:   
NAME: Joseph H. Lorenzo  
TITLE: Land Manager, DJ Basin

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

Attorney-in-Fact

*MWB  
JB*



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ACKNOWLEDGMENTS

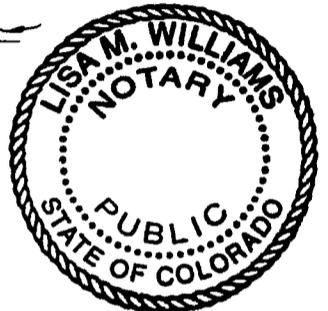
STATE OF COLORADO )  
CITY AND ) ss.  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2007, by Joseph H. Lorenzo, as Attorney-in-Fact of Kerr McGee Oil & Gas Onshore LP, on behalf of such company.

Witness my hand and official seal.

Lisa M. Williams  
Notary Public

My Commission Expires: 3-15-2008



STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by \_\_\_\_\_ as \_\_\_\_\_ of Lafarge West, Inc.

Witness my hand and official seal.

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

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



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. The term "surface damages payments" as used herein shall be given the meaning commonly used in the oil and gas industry.

**27. NO PRIVATE RIGHT OF ACTION.**

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**28. CONSTRUCTION.**

The parties have participated jointly in the negotiating and drafting of this Agreement. In the event ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties. and no presumption or burden of proof shall arise favoring or disfavoring either party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute or law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including, without limitation.

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**30. ENTIRE AGREEMENT.**

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**31. EXECUTION AND BINDING EFFECT.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute one and the same instrument. This Agreement is executed by the parties on the dates set forth in the acknowledgements, but to be effective on the date set forth above.

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

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

**LAFARGE WEST, INC.**

BY:   
NAME: Eric Reckert  
TITLE: Acc Manager



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ACKNOWLEDGMENTS

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by \_\_\_\_\_, as Attorney-in-Fact of Kerr McGee Oil & Gas Onshore LP, on behalf of such company.

Witness my hand and official seal.

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

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

STATE OF COLORADO )  
COUNTY OF Larimer )



The foregoing instrument was acknowledged before me this 1st day of May 2007, by Eric Reckertine as Area Manager of Lafarge West, Inc.

Witness my hand and official seal

Rose Marie Miranda  
Notary Public

My Commission Expires: 6/17/2009



EXHIBIT A

PHASE 1 – RITTENHOUSE  
LEASED

THAT PART OF THE NW 1/4 OF THE SE 1/4 OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF THE SE 1/4 OF SAID SECTION 19; THENCE SOUTH ALONG THE WEST LINE OF SAID QUARTER SECTION A DISTANCE OF 853 FEET TO THE NORTH LINE OF THE DAMIANA PROPERTY DESCRIBED IN DEED RECORDED IN BOOK 529, PAGE 433; THENCE EAST ALONG THE NORTH LINE OF SAID DAMIANA PROPERTY 264 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID QUARTER SECTION A DISTANCE OF 853 FEET, MORE OR LESS, TO THE NORTH LINE OF THE SE 1/4 OF SAID SECTION 19; THENCE WEST A DISTANCE OF 264 FEET ALONG THE NORTH LINE OF SAID QUARTER SECTION TO THE POINT OF BEGINNING; EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE HIGHWAY COMMISSION OF COLORADO FOR HIGHWAY PURPOSES IN SPECIAL WARRANTY DEED RECORDED IN BOOK 1401, PAGE 313, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH PROPERTY LINE FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 19 BEARS SOUTH 54°04' EAST A DISTANCE OF 3011.2 FEET; THENCE ALONG THE SOUTH PROPERTY LINE SOUTH 88°39' EAST A DISTANCE OF 68.9 FEET TO THE SOUTHEAST CORNER OF THE PROPERTY; THENCE ALONG THE EAST PROPERTY LINE NORTH 0°25'30" WEST A DISTANCE OF 856.8 FEET TO THE EAST-WEST QUARTER LINE OF SECTION 19; THENCE ALONG THE EAST-WEST QUARTER LINE OF SECTION 19 SOUTH 89°39' WEST A DISTANCE OF 159.3 FEET; THENCE SOUTH 4°48' EAST A DISTANCE OF 535.9 FEET; THENCE SOUTH 18°50' EAST A DISTANCE OF 103.1 FEET; THENCE SOUTH 4°48' EAST A DISTANCE OF 223.4 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

AND

THAT PART OF THE W 1/2 OF THE SE 1/4 OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF THE SE 1/4 OF SAID SECTION 19 WHICH IS 1310 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SE 1/4 OF SAID SECTION 19; THENCE NORTH 504 FEET; THENCE EAST 272 FEET; THENCE SOUTH 504 FEET; THENCE WEST 272 FEET TO THE PLACE OF BEGINNING; EXCEPT THAT PORTION THEREOF INCLUDED WITHIN A PARCEL OF LAND CONVEYED TO JOHN SCHELL AND CONSTANTINE SHELL IN QUIT CLAIM DEED RECORDED IN BOOK 1007, PAGE 39, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 247 FEET EAST OF THE SOUTHWEST CORNER OF THE SW 1/4 OF THE SE 1/4 OF SAID SECTION 19; THENCE NORTH TO A POINT ON THE NORTH LINE OF SAID SW 1/4 SE 1/4 ; THENCE EAST 25 FEET TO A POINT; THENCE SOUTH TO A POINT ON THE SOUTH LINE OF SAID SW 1/4 SE 1/4; THENCE WEST 25 FEET TO THE PLACE OF BEGINNING; AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE NORTH 10 FEET OF THE S 1/2 OF THE SE 1/4 AND THE SOUTH 20 FEET OF THE N 1/2 OF THE SE 1/4 OF SAID SECTION 19 AS CONVEYED TO THE BOARD OF COUNTY COMMISSIONERS OF WELD COUNTY AND TO WELD COUNTY TO BE USED AND MAINTAINED AS A PUBLIC ROAD IN WARRANTY DEED RECORDED IN BOOK 1229, PAGE 556; AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE HIGHWAY COMMISSION OF COLORADO FOR HIGHWAY PURPOSES IN SPECIAL WARRANTY DEED RECORDED IN BOOK 1401, PAGE 313, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH PROPERTY LINE FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 19 BEARS SOUTH 54°04' EAST A DISTANCE OF 3011.2 FEET; THENCE SOUTH 4°48'

EAST A DISTANCE OF 247.6 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 186.3 FEET, THE RADIUS OF WHICH ARC HAS A LENGTH OF 5805 FEET, AND THE CHORD OF WHICH ARC BEARS SOUTH 5°43' EAST A DISTANCE OF 186.2 FEET, TO THE SOUTH PROPERTY LINE; THENCE ALONG THE SOUTH PROPERTY LINE NORTH 89°50' EAST A DISTANCE OF 32.8 FEET TO THE EAST PROPERTY LINE; THENCE ALONG THE EAST PROPERTY LINE NORTH 0°25'30" WEST, A DISTANCE OF 430.3 FEET TO THE NORTH PROPERTY LINE; THENCE ALONG THE NORTH PROPERTY LINE NORTH 88°39' WEST A DISTANCE OF 68.9 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

AND LOTS 1 AND 2 IN THE SW 1/4 OF SAID SECTION 19, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH P.M. ALL IN WELD COUNTY, COLORADO.

**PHASE 2 - NORDEN TRUST**  
LAFARGE OWNERSHIP

THE N 1/2 OF THE NE 1/4 OF SECTION 24, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID SECTION 24; THENCE S 00°25'10" W, ALONG THE EAST LINE OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24, 1310.16 FEET TO THE SE CORNER OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24; THENCE S 89°45'34" W, ALONG THE SOUTH LINE OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24, 2637.68 FEET TO THE SW CORNER OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24; THENCE N 00°12'27" E, ALONG THE WEST LINE OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24, 1309.10 FEET TO THE NW CORNER OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24; THENCE N 89°44'15" E, ALONG THE NORTH LINE OF THE N 1/2 OF THE NE 1/4 OF SAID SECTION 24, 2642.54 FEET TO THE POINT OF BEGINNING.

**PHASE 3 – ANDERSON**  
LAFARGE OWNERSHIP

THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO.

**PHASE 4 – MCWILLIAMS**  
LEASED

ALL THAT PART OF THE NW 1/4 OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH P.M. WHICH LIES WEST OF THE CENTER LINE OF THE SOUTH PLATTE RIVER, WELD COUNTY, COLORADO,

EXCEPT:

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, WELD COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19, THENCE S 00°11'42" W, ALONG THE WEST LINE OF SAID NW 1/4, A DISTANCE OF 30.00 FEET; THENCE NORTH 90°00'00" EAST 747.67 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTED PARCEL;

- 1) THENCE CONTINUING ALONG SAID PARALLEL LINE, N 90° 00'00" E, A DISTANCE OF 882.35 FEET TO THE CENTERLINE OF THE MAIN CHANNEL OF THE SOUTH PLATTE RIVER (1997) AND CONTINUING ALONG SAID CENTERLINE THE FOLLOWING 5 (FIVE) COURSES;
- 2) THENCE S 22°21'23" W, A DISTANCE OF 119.58 FEET;
- 3) THENCE S 33°19'22" W, A DISTANCE OF 67.31 FEET;
- 4) THENCE S 43°51'39" W, A DISTANCE OF 182.10 FEET;



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- 5) THENCE S 46°41'03" W, A DISTANCE OF 182.88 FEET;
- 6) THENCE S 35°51'46" W, A DISTANCE OF 4.35 FEET;
- 7) THENCE DEPARTING SAID CENTERLINE, N 90°00'00" W, A DISTANCE OF 542.31 FEET;
- 8) THENCE N 00°33'48" E, A DISTANCE OF 427.13 FEET TO THE POINT OF BEGINNING OF SAID EXCEPTED PARCEL, CONTAINING 7.273 ACRES, MORE OR LESS.

**PHASE 5 - CHIKUMA  
LEASED**

THE N 1/2 OF SECTION 13, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN AND THE W 1/2 OF THE NW 1/4 OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, WELD COUNTY, COLORADO. LESS THAT PORTION IN THAT WARRANTY DEED RECORDED OCTOBER 23, 1908 IN BOOK 287, PAGE 208 OF THE WELD COUNTY RECORDS.

**PHASE 6 - CITY OF THORNTON/D&S MINING  
LEASED**

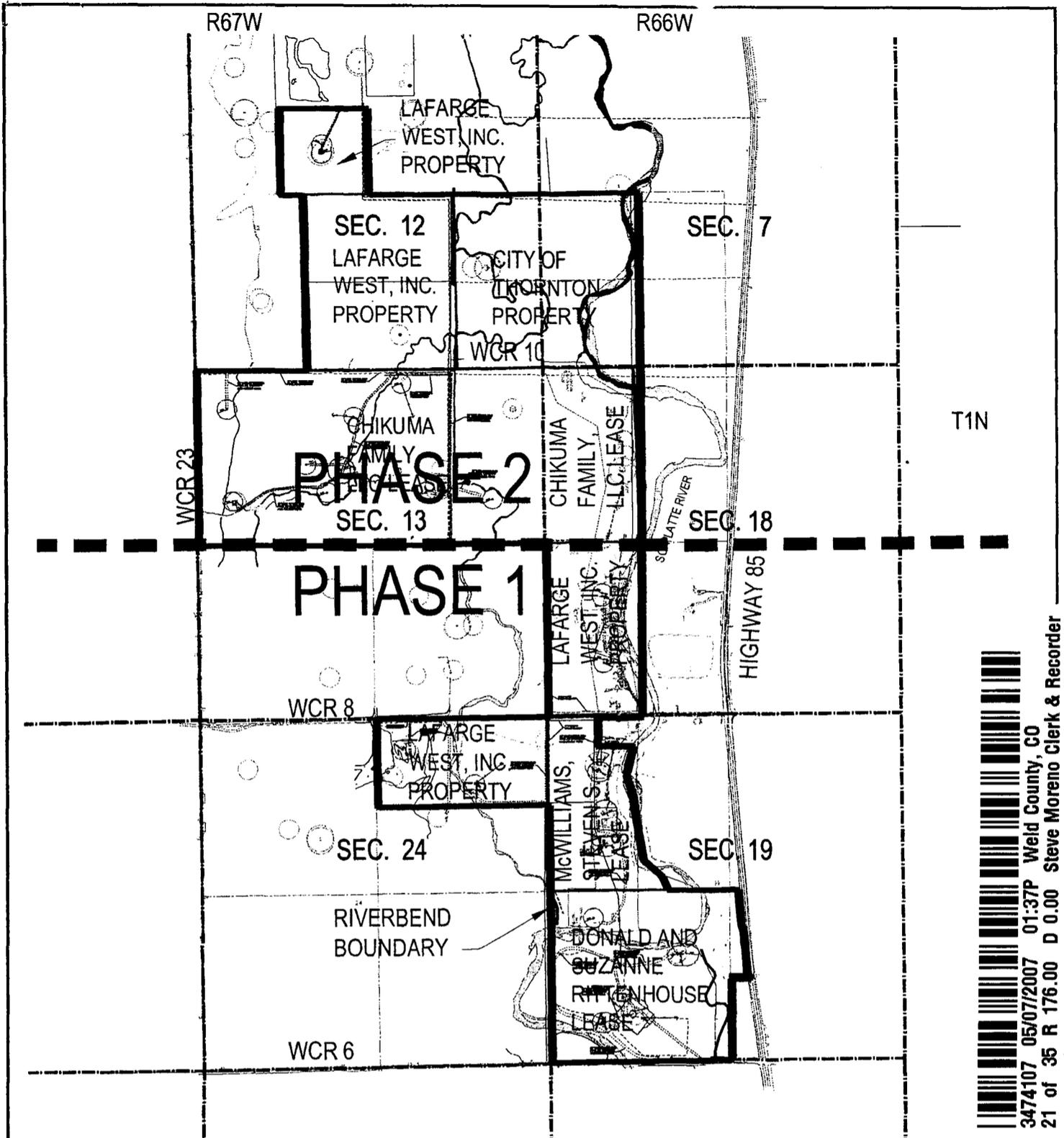
THE W 1/2 OF THE SW 1/4 OF SECTION 7, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN (CONTAINS 80 ACRES MORE OR LESS), TOGETHER WITH THE E 1/2 OF THE SE 1/4 OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN (CONTAINS 80 ACRES MORE OR LESS), ALL IN WELD COUNTY, COLORADO.

**PHASE 7 (SOUTHERN PORTION) - MYRNA  
LAFARGE OWNERSHIP**

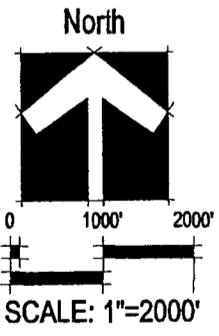
THE S 1/2 OF THE EAST 60 ACRES OF THE SW 1/4 OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN. THE W 1/4 OF THE SW 1/4 OF THE SE 1/4 OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN. THE EAST 30 ACRES OF THE SW 1/4 OF THE SE 1/4 OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN. ALL IN WELD COUNTY, CO.

**PHASE 7 (NORTHERN PORTION) AND 8 - MFM FARMS  
LAFARGE OWNERSHIP**

THE SE 1/4 OF THE NW 1/4 OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN AND THE NW 1/4 OF THE SE 1/4 AND THE EAST 30 ACRES OF THE NE 1/4 OF THE SW 1/4 OF SECTION 12, TOWNSHIP 1 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, ALL IN WELD COUNTY, COLORADO.



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**EXHIBIT "B"**  
PARCEL  
OWNERSHIP/LEASE  
MAP

**KERR-McGEE OIL & GAS WELL OPERATIONS**

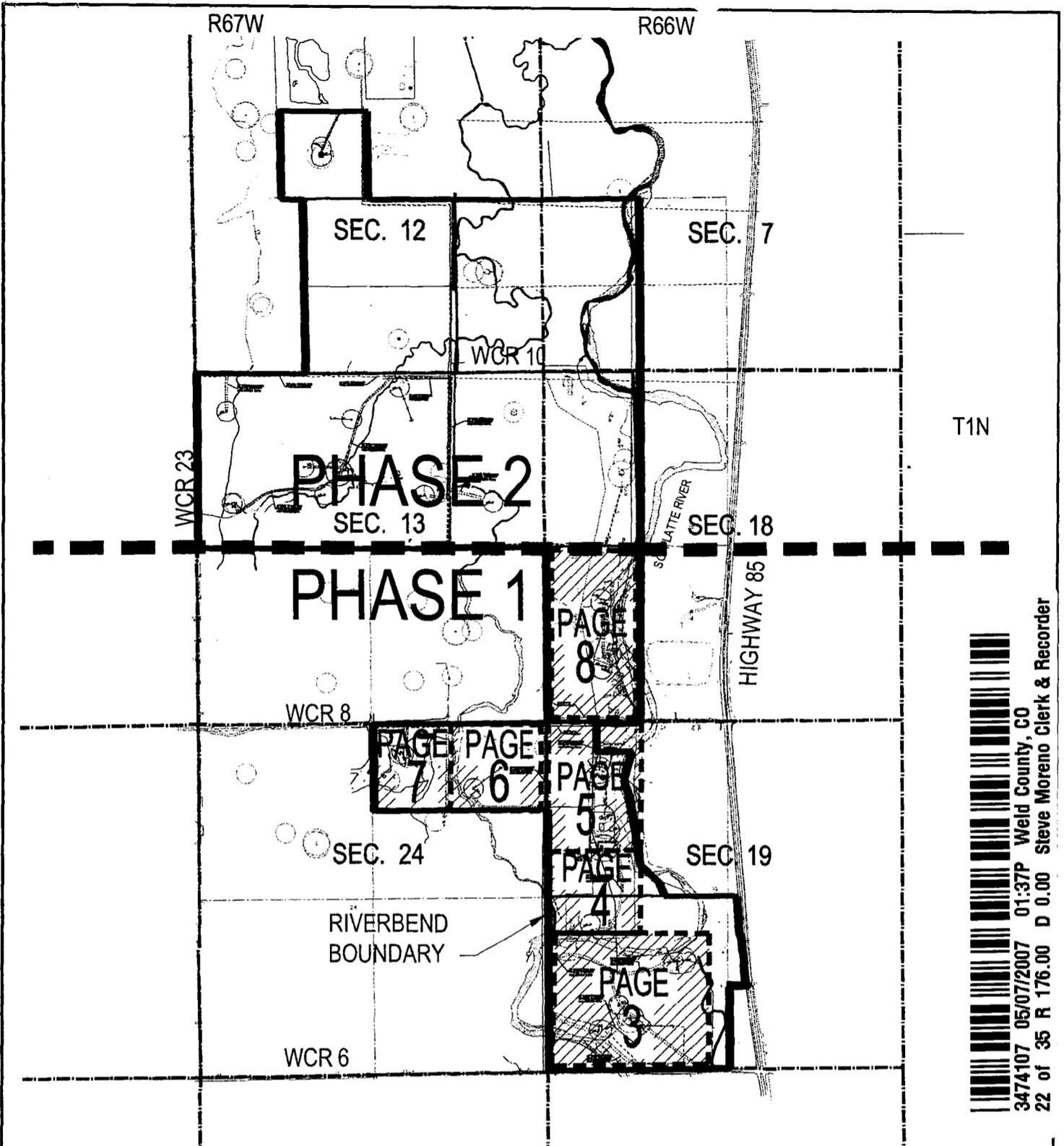
SECTIONS 12, 13 AND 24, T1N, R67W,  
SECTIONS 7, 18 AND 19, T1N, R66W,  
6TH P.M., WELD COUNTY COLORADO



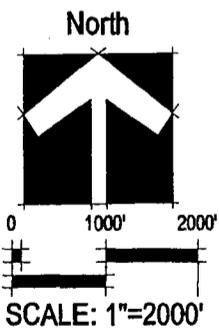
**TETRA TECH RMC**

1900 S. SUNSET ST., SUITE 1-F, LONGMONT, CO 80501  
TEL 303.772.5282 METRO 303.665.6283 FAX 303.665.6959

RIVERBEND OIL & GAS WELL OPERATIONS  
80-4137.012.00 MARCH 29, 2007



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KEY MAP

**KERR-McGEE OIL & GAS WELL OPERATIONS**

SECTIONS 12, 13 AND 24, T1N, R67W,  
 SECTIONS 7, 18 AND 19, T1N, R66W,  
 6TH P.M., WELD COUNTY COLORADO



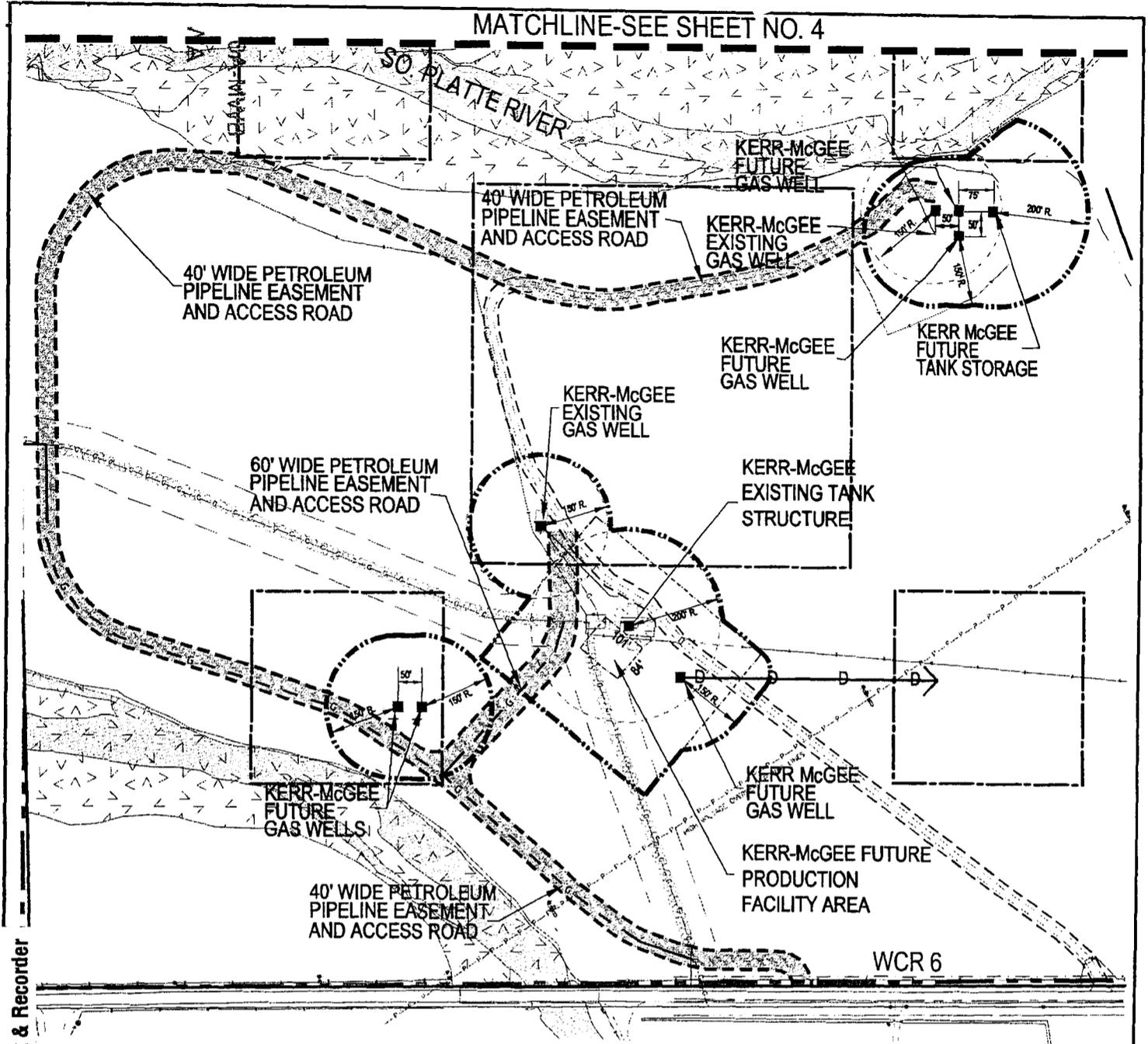
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RIVERBEND OIL & GAS WELL OPERATIONS  
 80-4137.012.00 MARCH 29, 2007

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MATCHLINE-SEE SHEET NO. 4



**LEGEND:**

- WETLANDS (JURISDICTIONAL)
- D — DIRECTIONAL DRILLING
- - G - - PROPOSED PETROLEUM PIPELINE ROUTE
- PETROLEUM PIPELINE TO BE ABANDONED
- 40' PETROLEUM PIPELINE EASEMENT AND ACCESS ROAD (OR AS SHOWN)
- DRILL WINDOWS
- TANK/GAS WELL
- G - - EXISTING PETROLEUM PIPELINE
- OIL AND GAS OPERATIONS AREA
- EXISTING PETROLEUM PIPELINE EASEMENT AND ACCESS ROAD TO BE ABANDONED

KERR-McGEE OIL & GAS WELL OPERATIONS IN SW 1/4, SECTION 19, T1N, R66W, 6TH P.M. WELD COUNTY, COLORADO



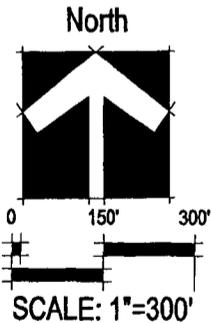
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RIVERBEND OIL & GAS WELL OPERATIONS  
80-4137.012.00 MARCH 29, 2007

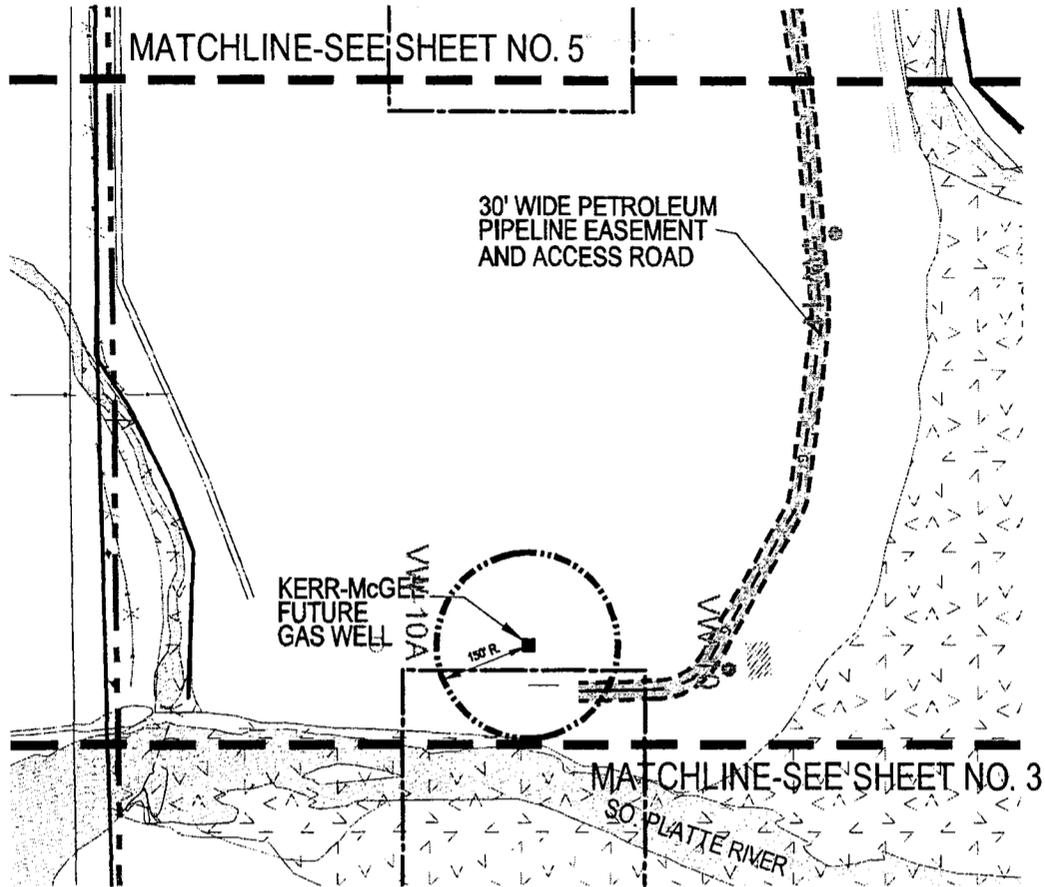
**3 OF 8**

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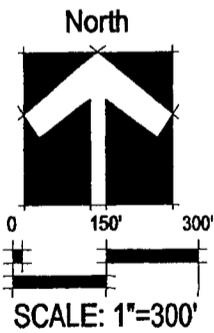


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LEGEND:

- CITY OF AURORA WELL
- 30' PETROLEUM PIPELINE EASEMENT AND ACCESS ROAD
- G-- PETROLEUM PIPELINE ROUTE
- DRILL WINDOWS
- TANK/GAS WELL
- OIL AND GAS OPERATIONS AREA
- WETLANDS (JURISDICTIONAL)



KERR-McGEE OIL & GAS WELL OPERATIONS IN  
 NW 1/4, SECTION 19, T1N, R66W, 6TH P.M.

WELD COUNTY, COLORADO



**TETRA TECH RMC**

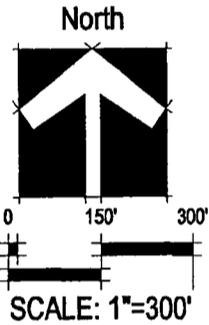
1900 S. SUNSET ST., SUITE 1-F, LONGMONT, CO 80501  
 TEL 303.772.5282 METRO 303.665.6283 FAX 303.665.6959

RIVERBEND OIL & GAS WELL OPERATIONS  
 80-4137.012.00 MARCH 29, 2007

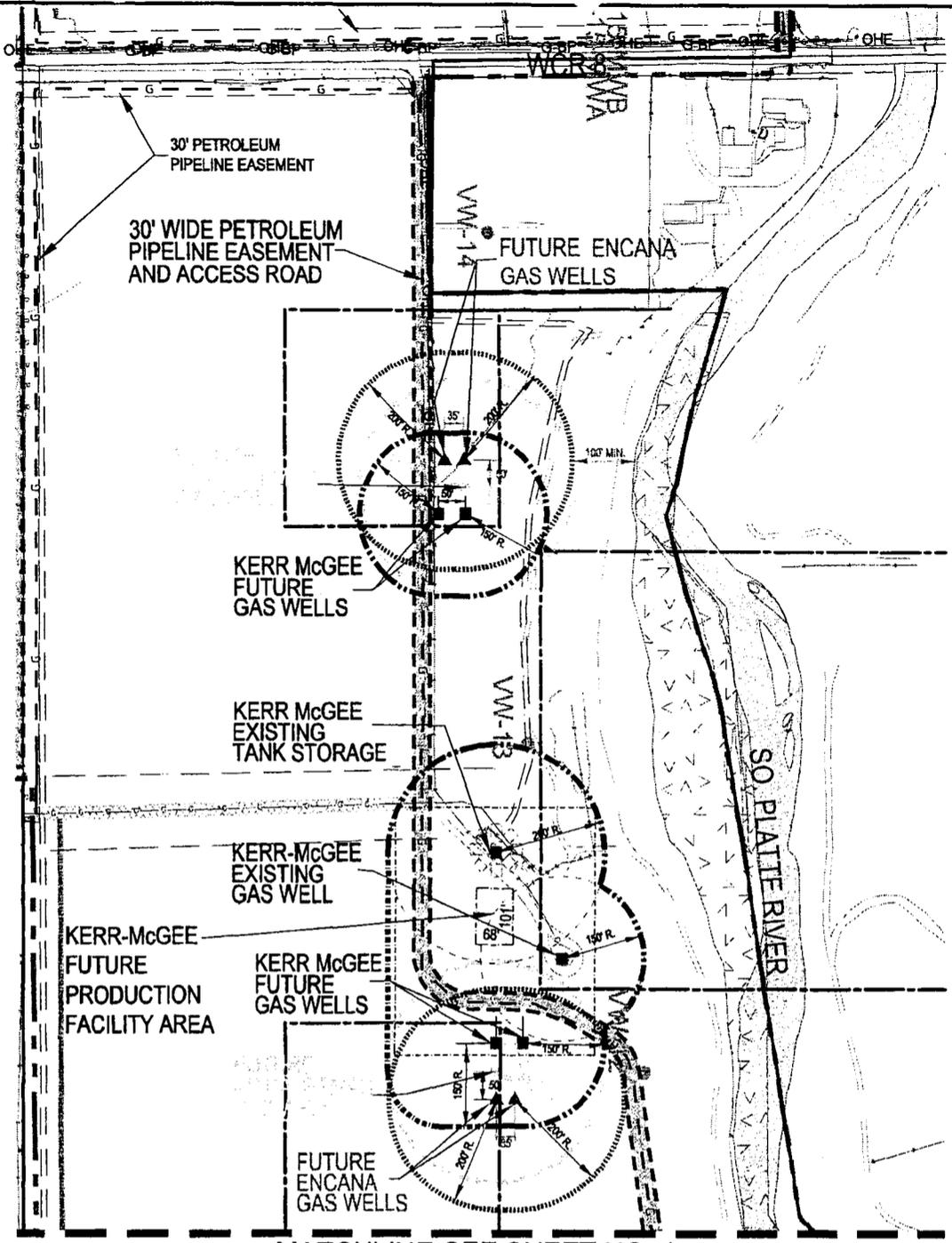
**4 OF 8**



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**FINAL  
 DRAFT  
 1-17-07**



MATCHLINE-SEE SHEET NO. 4

**LEGEND:**

- CITY OF AURORA WELL
- 30' PETROLEUM PIPELINE EASEMENT AND ACCESS ROAD
- PETROLEUM PIPELINE RELOCATION ROUTE
- PETROLEUM PIPELINE TO BE ABANDONED
- DRILL WINDOW
- TANK/GAS WELL
- EXISTING PETROLEUM PIPELINES
- KERR-McGEE OIL AND GAS OPERATIONS AREA
- KP KAUFMAN OIL AND GAS OPERATIONS AREA
- ENCANA WELL
- ENCANA OIL AND GAS OPERATIONS AREA
- WETLANDS (JURISDICTIONAL)

**KERR-McGEE OIL & GAS WELL  
 OPERATIONS IN NW 1/4, SECTION  
 19, T1N, R66W, 6TH P.M.  
 WELD COUNTY, COLORADO**



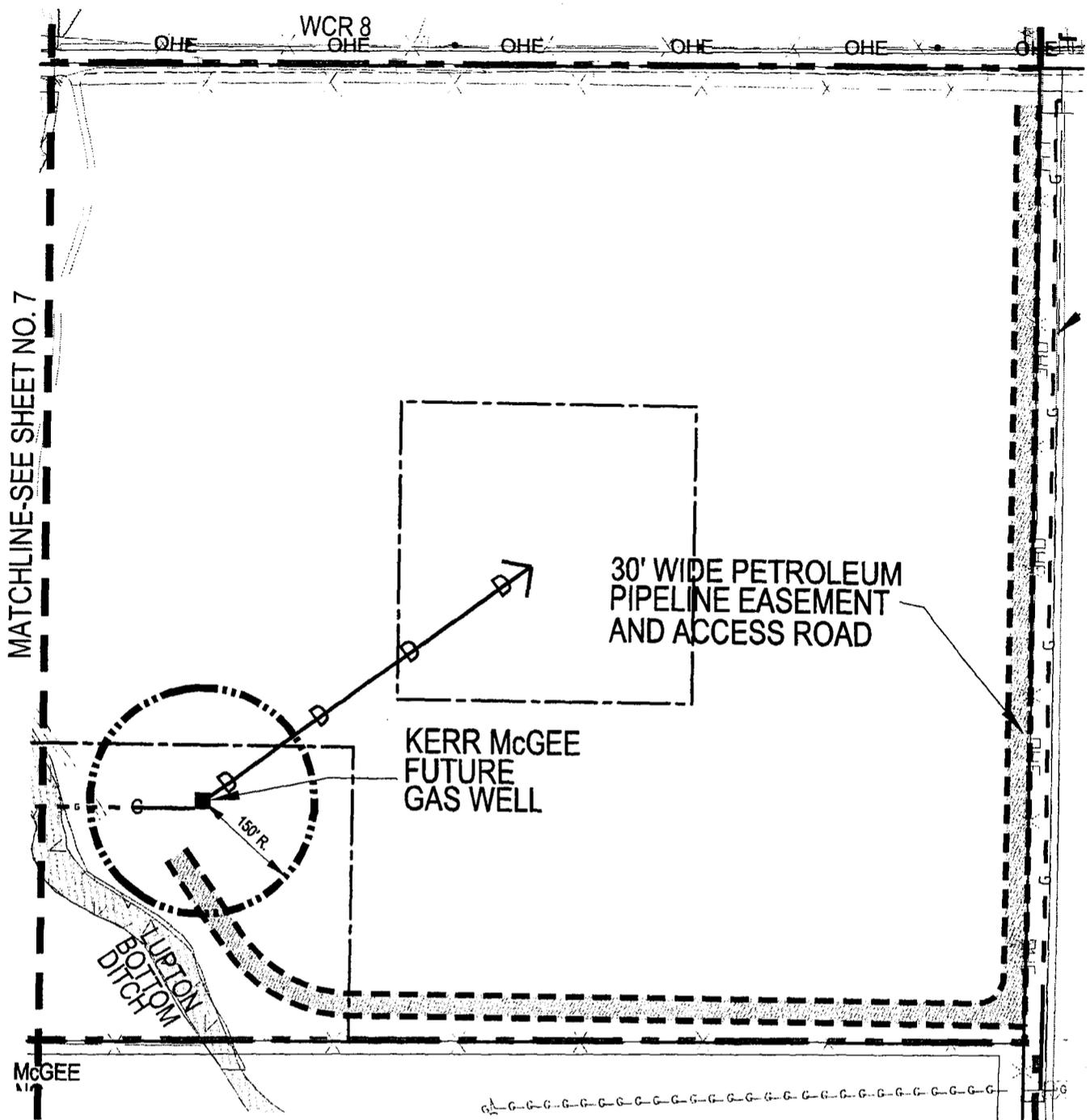
**TETRA TECH RMC**

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 TEL 303.772.5282 METRO 303.665.6283 FAX 303.665.6959

RIVERBEND OIL & GAS WELL OPERATIONS **5 OF 8**  
 80-4137.012.00 MARCH 29, 2007

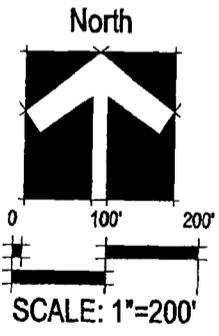


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**LEGEND:**

- G--- PETROLEUM PIPELINE ROUTE
- D— DIRECTIONAL DRILL
- EASEMENT AND ACCESS ROAD
- DRILL WINDOWS
- TANK/GAS WELL
- G-G- EXISTING PETROLEUM PIPELINE
- - - OIL AND GAS OPERATIONS AREA



**KERR-McGEE OIL & GAS WELL OPERATIONS IN  
 NE 1/4, SECTION 24, T1N, R67W, 6TH P.M.  
 WELD COUNTY, COLORADO**



**TETRA TECH RMC**

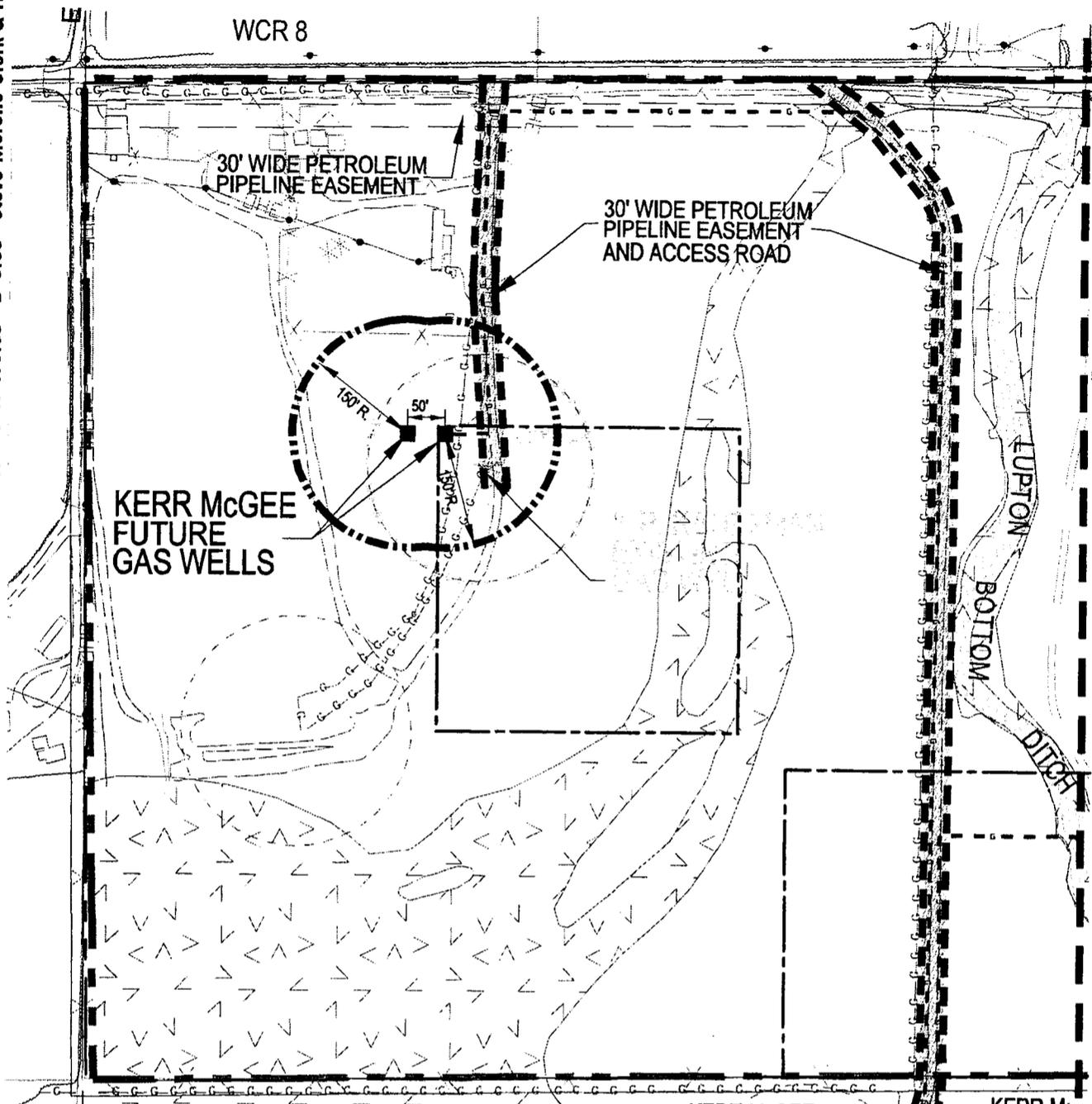
1900 S. SUNSET ST., SUITE 1-F, LONGMONT, CO 80501  
 TEL 303.772.5282 METRO 303.665.6283 FAX 303.665.6959

RIVERBEND OIL & GAS WELL OPERATIONS  
 80-4137.012.00 MARCH 29, 2007

**6 OF 8**



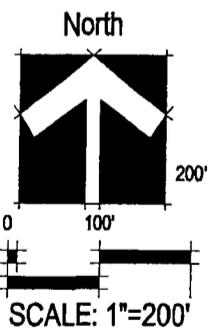
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MATCHLINE-SEE SHEET NO. 6

**LEGEND:**

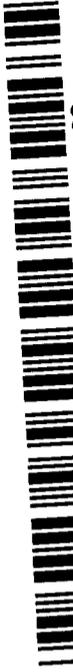
- EXISTING KP KAUFFMAN GAS WELL
- 30' PETROLEUM PIPELINE EASEMENT AND ACCESS ROAD
- DRILL WINDOWS
- FUTURE KERR-McGEE GAS WELL
- EXISTING PETROLEUM PIPELINE
- KERR-McGEE OIL AND GAS OPERATIONS AREA
- KP KAUFFMAN OIL AND GAS OPERATIONS AREA
- PETROLEUM PIPELINE ROUTE
- WETLANDS (JURISDICTIONAL)

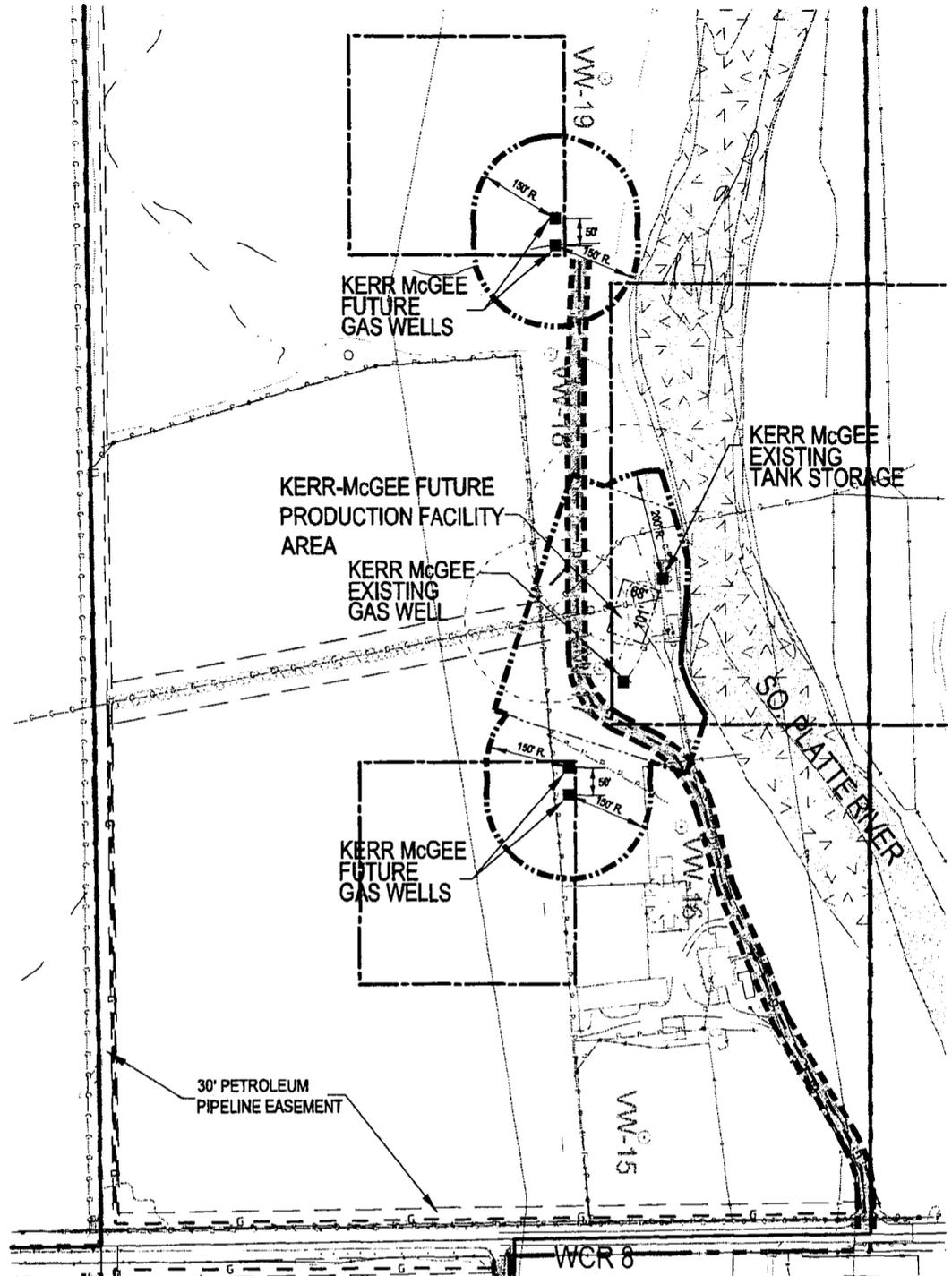
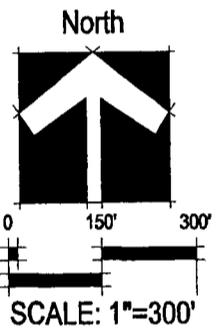


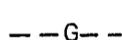
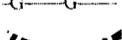
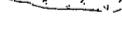
**KERR-McGEE OIL & GAS WELL OPERATIONS IN  
 NE 1/4, SECTION 24, T1N, R67W, 6TH P.M.  
 WELD COUNTY, COLORADO**

**TETRA TECH RMC**  
 1900 S. SUNSET ST., SUITE 1-F, LONGMONT, CO 80501  
 TEL 303.772.5282 METRO 303.665.6283 FAX 303.665.6959

RIVERBEND OIL & GAS WELL OPERATIONS **7 OF 8**  
 80-4137.012.00 MARCH 29, 2007


  
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- LEGEND:**
-  CITY OF AURORA WELL
  -  30' PETROLEUM PIPELINE EASEMENT AND ACCESS ROAD
  -  PETROLEUM PIPELINE RELOCATION ROUTE
  -  PETROLEUM PIPELINE TO BE ABANDONED
  -  DRILL WINDOWS
  -  TANK/GAS WELL
  -  EXISTING PETROLEUM PIPELINE
  -  KERR-McGEE OIL AND GAS OPERATIONS AREA
  -  WETLANDS (JURISDICTIONAL)

**KERR-McGEE OIL & GAS WELL OPERATIONS IN**  
**SW 1/4, SECTION 18, T1N, R66W, 6TH P.M.**  
**WELD COUNTY, COLORADO**


**TETRA TECH RMC**  
 1900 S. SUNSET ST., SUITE 1-F, LONGMONT, CO 80501  
 TEL 303.772.5282 METRO 303.665.6283 FAX 303.665.6959

RIVERBEND OIL & GAS WELL OPERATIONS **8 OF 8**  
 80-4137.012.00 MARCH 29, 2007



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EXHIBIT C

## General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Rocky Mountain Corporation 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, IE, distribution gas, oil and gas gathering, water, electric, telephone, cable and sewer lines, etc., may cross perpendicular to KMG's pipeline within the ROW, provided that a minimum of eighteen inches (18") of vertical clearance is maintained between KMG pipeline(s) and the foreign utility. Any installation by a foreign utility with less than 18" of vertical separation is not allowed without written approval by KMG. In no case will vertical separation be less than 12" whether written or not. Constant line elevations must be maintained across KMG's entire ROW width, gravity drain lines are the only exception and must be approved in writing. Foreign line crossings below the KMG pipeline must be evaluated by KMG to ensure that a significant length of the KMG line is not exposed and unsupported during construction. Foreign line crossings above the KMG pipeline with less than 18" of clearance must be evaluated by KMG to ensure that additional support is not necessary to prevent settling on top of the KMG natural gas pipeline. A KMG representative must be on site 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



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## General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Rocky Mountain Corporation 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 its underground facilities with aboveground pipeline markers and test leads and maintain those markers and test leads. Markers will be installed at every point the pipeline route changes direction and adequate markers will be installed on straight sections of pipeline to insure, in the sole opinion of KMG, the safety of the public, contractor, KMG personnel and KMG facilities.
- On all foreign utility crossings and / or encroachments, metallic foreign lines shall be coated with a suitable pipe coating for a distance of at least 10 feet on either side of the crossing.
- AC Electrical lines must be installed in conduit and properly insulated.
- On all foreign pipelines, DOT approved pipeline markers shall be installed so as to indicate the route of the foreign pipeline across the KMG ROW.
- No power poles, light standards, etc. shall be installed in the KMG easement without written approval by KMG.
- KMG installs above ground appurtenances at various locations that are used in the operation of its facilities. Kerr McGee will install protective enclosures at the above ground appurtenances to protect them from outside damage. The design and placement of these above ground appurtenances and protective enclosures is done at KMG's sole discretion, and may exceed any regulatory requirements.

### Construction

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



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## 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 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 fires.
- 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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## **General Guidelines for Design and Construction Activities On or Near Kerr- McGee Gathering LLC and Kerr - McGee Rocky Mountain Corporation Pipelines and Related Facilities**

- 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



Exhibit "D"

Attached hereto and made a part of that certain Agreement Surface Use Agreement between [redacted] and Kerr-McGee Oil & Gas Onshore LP, dated [redacted] of [redacted] 2006

RIGHT-OF-WAY GRANT

THIS RIGHT-OF-WAY GRANT ("Grant) is made this [redacted] day of [redacted], 2006, from [redacted], whose address is, [redacted] Colorado [redacted] ("Grantor"), to Kerr-McGee [redacted] a Colorado limited liability company, whose address is 1999 Broadway, Suite 3700, Denver, Colorado 80202 ("Grantee"). The parties agree as follows:

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

[redacted] TOWNSHIP NORTH RANGE WEST 6 1/4 PM Section

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

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 Right-of Way Lands, subject to the rights herein granted.

This Grant cannot be modified, except in writing signed by all parties hereto.

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

Grantors:

Grantee:

Kerr-McGee \_\_\_\_\_  
By its Manager,  
Kerr-McGee Oil & Gas Onshore LP,

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

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



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STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

  
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The foregoing instrument was acknowledged before me this [REDACTED] day of [REDACTED], 2006, by

[REDACTED], as [REDACTED].

Witness my hand and official Seal.

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

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

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

The foregoing instrument was acknowledged before me this [REDACTED] day of [REDACTED], 2006, by Joseph H. Lorenzo, as Attorney-in-Fact of Kerr-McGee [REDACTED], a [REDACTED], 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

**KERR-McGEE OIL & GAS ONSHORE LP**  
**1999 Broadway, Suite 3700**  
**Denver, Colorado 80202**

April 27, 2007

Mr. Eric Reckentine  
Lafarge West, Inc.  
10170 Church Ranch Way Suite 200  
Westminster, Colorado 80021

**LETTER AGREEMENT**  
**(Directional costs)**

**RE: Riverbend**  
**Township 1 North, Range 66 West**  
**Section 18: W/2SW/4**  
**Section 19: W/2NW/4; SW/4**  
**Township 1 North, Range 67 West**  
**Section 24: N/2NE/4**  
**Weld County, Colorado**

Dear Mr.Reckentine:

This letter supplements the Surface Use Agreement ("SUA") between Kerr-McGee Oil & Gas Onshore LP ("KMG") and Lafarge West, Inc. ("Lafarge") dated the same date as this Letter Agreement.

The purpose of the SUA is to set forth the terms pursuant to which the surface estate owned by Lafarge or for which Lafarge has a mining lease and the oil and gas estate in which KMG owns oil and gas leasehold interests can be compatibly developed for the property referenced above ("Property"). The parties in the SUA identified the existing and future locations for oil and gas wells, production facilities, access roads and pipeline easements.

Surface Owner understands and acknowledges that KMG as part of the SUA has agreed, upon compliance by Lafarge of certain conditions contained in the SUA and in this Letter Agreement, to give up certain legal wellsite surface locations approved by the Colorado Oil and Gas Conservation Commission ("COGCC"), specifically the legal locations in the centers of the SE/4SW/4 of Section 19 and the NE/4NE/4 of Section 24 ("Relinquished Locations.") Further, KMG, or its successors and assigns, may be required to incur additional costs to get approvals from the COGCC for certain wells to be drilled within some of the Oil and Gas Operations Areas, among other such costs.

In consideration of the agreements of KMG in the SUA, Lafarge agrees as follows:

1. Terms Used in the Surface Use Agreement. A term used in this Letter Agreement shall have the same meaning as the term is used in the SUA.
2. Directional Drilling Payments for Relinquished Locations. Lafarge shall pay to KMG the total amount of Two Hundred Thousand Dollars (\$200,000.00) ("Payment"), being the amount of One Hundred Thousand Dollars per well, which represents the amount for directional drilling costs (the incremental costs between drilling a well vertically and drilling a well directionally) and other costs and expenses related to the directional drilling of two wells that would otherwise be located in legal locations approved by the COGCC in the Relinquished Locations. The Payment or portions of the Payment shall be made to KMG, in the form, and at the time specified herein in section 3.
3. Cash Payment and Timing. The amount of the payment for each Well described in section 2 shall be made in cash or by certified funds or cashier's check or wire transfer of immediately available funds within thirty (30) days from the earlier date of: i) the date that KMG notifies Lafarge that it has commenced or within thirty (30) days after the notice will commence the drilling of a Well within an Oil and Gas Operations Area that has a bottomhole location in a Relinquished Location; or ii) the date that Lafarge commences mining operations within any portion of the quarter section in which a Relinquished Location is located or in any area as to which, in the opinion of KMG, Lafarge's operations may impair KMG's access to the legal wellsite surface location to be relinquished; provided, however, the total amount of the Payment or unpaid portions thereof shall be paid to KMG on or before December 31, 2009.
4. Letter of Credit. In order to secure the amount of the Payment, Lafarge shall provide KMG with an irrevocable letter of credit ("LOC") to be issued by Suntrust Bank, International Division, Attention: Letter of Credit Department, 25 Park Place, 16<sup>th</sup> Floor, MC 3706, Atlanta, Georgia 30303, in the amount of \$200,000.00. The LOC shall be provided to KMG within thirty days after Lafarge receives approval of a final application for development from a local jurisdiction for all or any portion of the Phase 1 Property, which LOC shall be in a form that is acceptable to KMG.

Because the damages which might reasonably be expected to result from the failure of Lafarge to provide or maintain the LOC are difficult or impossible to ascertain because of their indefiniteness or uncertainty, KMG and Lafarge agree that any breach by Lafarge to provide or maintain an acceptable LOC shall entitle KMG to recover from Lafarge, liquidated damages in the amount of \$200 a day for each day that Lafarge fails to provide or maintain the LOC, which the parties agree is a reasonable estimate of the damages which would probably be caused by such a breach and not a penalty. This liquidated damages provision is in addition to and not in lieu of any and all other payments due under this Letter Agreement or the SUA.

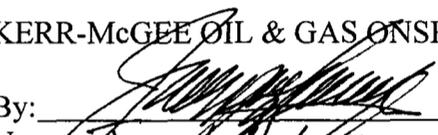
5. Interest Payment upon Default. Upon the default of Lafarge, the amount due shall bear interest from the date of default at the lesser rate of either twelve percent (12%) per annum or the maximum amount of non-usurious interest. KMG shall be entitled to collect all reasonable costs and expenses of collection and/or suit, including, but not limited to, court costs, reasonable attorneys fees and expert witness fees.

6. Binding on Successors and Assigns. This Letter Agreement shall be binding upon the parties and their respective successors and assigns and inure to their benefit.

7. Counterpart Execution. This Letter Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Very truly yours,

KERR-McGEE OIL & GAS ONSHORE LP

By: 

Name: Joseph A. Loraneo

Its: Land Manager, DJ Basin

Attorney-in-Fact

*Handwritten initials: JAL/gm*

AGREED TO AND ACCEPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2007

LAFARGE WEST, INC.

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

5. Interest Payment upon Default. Upon the default of Lafarge, the amount due shall bear interest from the date of default at the lesser rate of either twelve percent (12%) per annum or the maximum amount of non-usurious interest. KMG shall be entitled to collect all reasonable costs and expenses of collection and/or suit, including, but not limited to, court costs, reasonable attorneys fees and expert witness fees.

6. Binding on Successors and Assigns. This Letter Agreement shall be binding upon the parties and their respective successors and assigns and inure to their benefit.

7. Counterpart Execution. This Letter Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Very truly yours,

KERR-McGEE OIL & GAS ONSHORE LP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

AGREED TO AND ACCEPTED this 30 day of April, 2007

LAFARGE WEST, INC.

By:  \_\_\_\_\_  
Name: Eric Reckentrie  
Its: Area Manager Northern Ass.

IRREVOCABLE STANDBY  
LETTER OF CREDIT  
No.: SBLC 0031/07

DATE OF ISSUANCE: June 19, 2007

Account Party: Lafarge North America Inc.

TO: Kerr-McGee Oil and Gas Onshore LP ("Beneficiary")  
1201 Lake Robbins Drive  
The Woodlands, TX 77380  
Attn: Corporate Credit Services Department  
Telephone: 832-636-7004  
Telefax: 832-636-8214

Address  
560 Lexington Avenue  
New York, N.Y. 10022  
USA

Phone (212) 310-9800 (general)  
Fax (212) 310-9166  
Telex 177130 bayland nyk

SWIFT BYLAUS33

Head Office  
Bayerische Landesbank  
Brienner Strasse 18  
80333 München  
Germany  
Phone ++49 89 2171-01

[www.bayernlb.com](http://www.bayernlb.com)

At the request and for the account of the Account Party, and on behalf of Lafarge West Inc., we hereby establish this irrevocable letter of credit in your favor as "Beneficiary" for up to United States Dollars 200,000 (Two Hundred Thousand United States Dollars) effective immediately. This letter of credit is issued, presentable and payable at our office at 560 Lexington Ave., New York, New York 10022 and expires with our close of business on May 31, 2008. Partial drawings are allowed.

The term "Beneficiary" includes any successor by operation of law of the named Beneficiary including, without limitation, any liquidator, rehabilitator, receiver or conservator.

We hereby undertake to promptly honor your sight draft(s) drawn on us, referring explicitly to our letter of credit no. SBLC 0031/07 if presented at our office specified above on or before the expiry date or any automatically extended expiry date, *provided* that such request is accompanied by a statement purportedly signed by an authorized individual on behalf of the Beneficiary that reads as follows: "We hereby certify that the amount of this drawing is for payment of amounts due to us from Lafarge West, Inc., pursuant to that certain Letter Agreement (Directional costs), dated April 27, 2007".

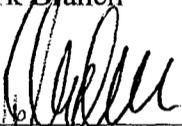
Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification. The obligation of Bayerische Landesbank, New York Branch under this letter of credit is the individual obligation of Bayerische Landesbank, New York Branch and is in no way contingent upon reimbursement with respect thereto.

This letter of credit shall automatically renew without amendment each year for an additional period of one year unless we provide you with written notice that it will not be renewed at least sixty (60) days prior to the expiry date then in effect. Such notice shall be made by courier service or certified mail, return receipt requested.

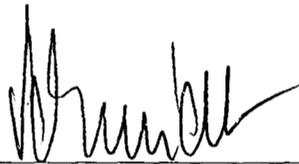
This letter of credit is subject to and governed by the 1993 revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 500) ("the UCP") and, as to matters about which the UCP is silent, by the laws of the State of New York, *except that* if this credit should expire during an interruption of business as described in Article 17 of the UCP, we hereby specifically agree to effect payment if this credit is drawn against within 30 days after the resumption of business.

Very truly yours,

**BAYERISCHE LANDESBANK,**  
New York Branch



Name: Nikolai Von Mengden  
Title: Senior Vice President



Name: Annette Schmidt  
Title: First Vice President