

AMENDED AND RESTATED EASEMENT AND WATER WELL DISPOSAL
AGREEMENT

KNOW ALL BY THESE PRESENTS:

That **Lyster Family Farms Limited Partnership** ("Grantor"), for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant and convey unto **Marcum Midstream 1995-2 EC Holding, LLC**, having its principal office at 8207 W. 20th Street, Suite B, Greeley, CO 80634 ("Grantee"), the exclusive right, privilege and easement ("Easement") for the purpose of locating, constructing, operating, maintaining, repairing, altering, replacing and removing one water disposal well, and appurtenant facilities, including without limitation, pipelines, wellheads, storage tanks, pumps, separators, concrete water storage vaults, buildings, loading facilities, piping, above and below ground valves, meters, communications lines, power lines, cathodic protection equipment and markers, and other facilities and equipment necessary or desirable in connection with the purposes herein, all for the receipt, handling, storage, treatment and disposal of water obtained in connection with oil and gas well drilling, completing and producing operations from other lands, and for the separation and storage of oil from such water; together with the rights to install and maintain necessary access roads, all within, over, across, under and upon the following lands in WELD COUNTY, COLORADO, to-wit:

See **Exhibit "A"**, attached hereto.

TO HAVE AND TO HOLD unto Grantee, together with all the rights, benefits and privileges necessary and convenient for the full use and enjoyment of the rights herein granted, including but not limited to (a) the free right of ingress to and egress from the Easement using existing access from public roads, for as long as Grantee is using said Easement for the purpose set forth herein.

It is further agreed as follows:

1. As consideration for rights granted hereunder, Grantee shall pay Grantor a royalty on each barrel of water disposed of in the water disposal well located on the Easement equal to \$0.0846 per barrel, subject to the following provisions:

a. January 1 of each year so long as this Easement remains in effect, the per barrel royalty to be paid by Grantee to Grantor shall be adjusted (up or down) according to the COPAS accounting procedure index issued on April 1 of the previous calendar year (so that, for example, the adjustment made on January 1, 2012 will reflect the change in the COPAS accounting procedure index from that issued April 1, 2010 to that issued April 1, 2011); provided that (i) the per barrel royalty shall never decrease below \$0.08 per barrel and shall never increase above \$0.20 per barrel; and (ii) the maximum increase in the per barrel royalty for any year shall be one-half cent (\$.005). The COPAS accounting procedure referred to in this paragraph is the index published April 1 of each year by the Petroleum Accountants of Oklahoma-Tulsa. Should publication of the COPAS accounting procedure index be discontinued, the parties shall agree upon another index

reflecting the economics of the oil industry, for use beginning the first year the COPAS accounting procedure index is not available.

b. During each calendar year as long as this Agreement remains in effect, per year royalties paid to Grantor will total at least \$40,000.08; provided that if this Agreement is terminated at any time other than year end, the \$40,000.08 minimum payment for that year will be adjusted according to the number of days in the year that the Agreement was in effect. Such minimum annual payments will be computed on a calendar year basis, but will be paid monthly during that same year.

2. Grantor represents and warrants that he is the owner in fee simple of the lands covered by the Easement, free and clear of any outstanding mortgages and conflicting rights of way, and in the event any claims are asserted by third parties, Grantee shall have the right to defend against such claims, and may discharge or redeem for Grantor, in whole or in part, any mortgage, tax or other lien on the lands covered by the Easement and thereupon be subrogated to such lien and rights incident thereto.

3. The rights of the parties may be assigned in whole or in part, provided however that Grantee may assign its interests only with the express written consent of Grantor, which consent shall not be unreasonably withheld.

4. In the event Grantee ceases to use the Easement and fails to keep the facilities constructed hereunder available for service, all for the purposes set forth herein, for any continuous period of five (5) years or more, this Easement shall terminate and all right, privileges and benefits of the Grantee hereunder will revert to the Grantor. Failure to pay royalties shall be an event of default. This Easement shall terminate if Grantee fails to pay royalties or minimum royalties as defined herein for two consecutive months. Grantor shall notify Grantee of the failure to pay royalties or minimum royalties, and Grantee shall have thirty (30) days in which to cure such default. If payment is not made within 30 days following Grantor's notice, this Easement shall terminate without the need for further action by Grantor. Upon the termination of this Easement, Grantee shall comply with the following:

a. All surface equipment and concrete pads, or building foundations, shall be removed from the Easement,

b. All power or telephone poles and lines for operations on the Easement shall be removed from the access road and Easement.

c. If shallower than 36 inches, all buried steel, fiberglass, and/or plastic pipes, manifolds, electrical lines, water lines, etc. shall be dug up and removed from the subsurface soils at the Easement. Any remaining pipelines shall be displaced with water prior to abandonment.

d. The well bore for the disposal well shall be plugged and abandoned as per State of Colorado Oil and Gas Conservation Commission rules and regulations, or Federal agency rules and regulations, in effect at the time of abandonment. Surface casing shall be cut

off no less than 4' from the surface and a 1/4" metal plate welded across the top of the surface casing. No less than 50' of cement shall be placed within the surface casing below the 1/4" steel plate.

e. All stipulations present in all State, County and Federal permits shall be fully complied with.

f. All sand or gravel road base shall be removed from the Easement site, berms and access road. The soils shall be ripped to a depth of 30 inches after removal of surface road base or gravel and replacement of all contaminated soils for preparation for planting for the next year growing season.

g. Grantor shall be notified in writing no less than 30 days prior to abandonment of the Easement and/or plug and abandonment of the disposal well. Grantor, or its representative, shall have the right to witness all plugging and abandonment procedures, reclamation procedures, and shall receive all copies of any records submitted to all State, County, or Federal agencies regarding plugging of the well or abandonment of the location.

h. The Easement, including the access road shall be returned to its original contours for irrigation of the lands. Should settling occur in the replacement soils during a period of two years following reclamation, Grantee shall be required to haul in additional top soil and recontour the lands during the next crop season to ensure the land can be irrigated without low spots in the field, preventing the efficient flow of water through the field, or water saturation of the soils in the low spots resulting in destruction of crops during the growing season.

5. All reclamation requirements shall survive termination of this Easement, and Grantor shall have a right of action to enforce Grantee's reclamation obligations, either in equity or at law.

6. Grantee agrees to indemnify and hold harmless Grantor, its officers, employees, agents, successors and assigns against any and all liability, loss, damages, claims, demand actions, causes of actions, including court costs and attorney's fees which may result from property damage, including violations of applicable environmental laws, or personal injury to, or death to persons whomsoever, to the extent such arises from Grantee's occupancy of the Easement or Grantee's operations on the Easement, except to the extent that such liability, loss, damage, claims, demand actions, causes of action, including court costs and attorney's fees, arise out of the negligence, willful misconduct, or any act or omission of Grantor, its agents, employees, successors or assigns.

a. Insurance: Grantee shall maintain insurance coverage while conducting any activity on the Easement, naming Grantor as an additional named insured and providing coverage consisting of, at a minimum:

i. Workmen's Compensation Insurance, with statutory limits in accordance with all applicable State and Federal laws, and Employer's Liability Insurance of \$1,000,000 per accident/occurrence,

- ii. Comprehensive General Liability Insurance, with limits of \$5,000,000 combined single limit per occurrence, including but not limited to coverage for public liability, bodily/personal injury, advertising injury, property damage premises coverage, contractual liability for those liabilities assumed by the Operator, cross liability and severability of interest, liability for pollution and cleanup on a sudden and accidental basis, products and completed operations, protective liability/independent contractors/work sublet, and with the "care, custody, and control exclusion" deleted.
- iii. Automobile Liability Insurance, with limits of \$1,000,000 combined single limit per accident/occurrence for bodily/personal injury and property damage, including but not limited to coverage for all owned, hired and non-owned vehicles or automotive equipment used by or for the Party and contractual liability for those liabilities assumed by the Party herein.
- iv. Property Insurance covering the Party's machinery and equipment for its replacement value and including removal of wreck/debris coverage.

7. This instrument contains the entire agreement of the parties. This instrument amends and restates the following instruments in their entirety: (a) Easement and Water Disposal Agreement between Lyster Family Farms and Coors Energy Company, acknowledged on August 13, 1985; (b) Settlement Agreement dated August 1, 1995, between Gerrity Oil & Gas Corporation and Lyster Family Farms, and Norman C. Lyster and Elizabeth C. Eckles, individually and as personal representatives of the Estate of Norman H. Lyster; (c) First Amendment to Settlement Agreement dated November 5, 2007, between Marcum Midstream 1995-2 EC Holding, LLC and Lyster Family Farms, and (d) Second Amendment to Settlement Agreement dated April 1, 2010, between Marcum Midstream 1995-2 EC Holding, LLC and Lyster Family Farms. There are no other or different agreements or understandings between Grantor and Grantee or its agents, and Grantor, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of Grantee or its agents or employees, except as such as are set forth herein.

8. Grantor shall have access at all times to the Easement and the facilities thereon, subject to the requirement to comply with health and safety regulations imposed on all persons accessing such facilities. Grantor shall have the right to audit the books and records of the Grantee at the Grantee's regular place of business, as such books and records relate to the Easement, the facilities thereon, and the water injection operation. Such audit right shall be exercised by providing two business days notice to Grantee of Grantor's intended audit. Any audit shall be at Grantor's expense.

This instrument and the rights, easements and agreements herein contained shall be covenants running with the land and shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Dated this 31st day of May, 2011.

Grantor:

Lyster Family Farms Limited Partnership

By: N. G. Lyster

As: General Partner

Grantee:

Marcum Midstream 1995-2 EC Holding, LLC

By: [Signature]

As: PRESIDENT

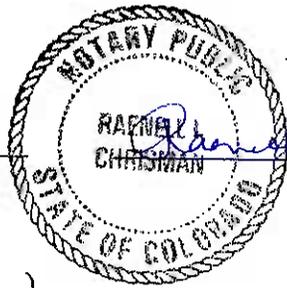
STATE OF COLORADO)
)
COUNTY OF WELD)

SS.

The foregoing instrument was acknowledged before me this 31st day of May, 2011, by N.L. Lyster as General Partner of **Lyster Family Farms Limited Partnership**.

Witness my hand and seal.

My Commission Expires: 11/24/2014



Raenell G. Chrisman
Notary Public

STATE OF COLORADO)
)
COUNTY OF WELD)

SS.

The foregoing instrument was acknowledged before me this 31st day of May, 2011, by Dale S. Butcher as President of **Marcum Midstream 1995-2 EC Holding, LLC**.

Witness my hand and seal.

My Commission Expires: 11/24/2014



Raenell G. Chrisman
Notary Public

EXHIBIT "A"

A parcel of land being part of the Southwest Quarter of the Southeast Quarter (SW/4SE/4) of Section Twenty-six (26), Township Six North (T.6N.), Range Sixty-five West (R.65W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, and being more particularly described as follows:

COMMENCING at the Southeast Corner of said Section 26 and assuming the South line of the Southeast Quarter (SE/4) of said Section 26 as bearing south 89°17'35" west, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, a distance of 2664.59 feet, with all other bearings contained herein relative thereto. From the South Quarter Corner of said Section 26, the Southwest Corner of said Section 26 bears south 89°17'28" west a distance of 2645.59 feet;

THENCE south 89°17'35" west along the South line of said SE/4 a distance of 1842.07 feet to the **POINT OF BEGINNING**;

THENCE south 89°17'35" west continuing along said South line a distance of 165.91 feet;

THENCE north 00°42'25" west a distance of 790.16 feet;

THENCE north 89°17'35" east a distance of 165.91 feet;

THENCE south 00°42'25" east a distance of 790.16 feet to the **POINT OF BEGINNING**.

Said described parcel of land contains 3.010 acres, more or less (\pm), and is subject to any rights-of-way or other easements as granted or reserved by instruments of record or as now existing on said described parcel of land.