

SURFACE USE AGREEMENT

February This SURFACE USE AGREEMENT ("Agreement") is made effective this 20th day of ~~January~~, 2012, by and between Keto Colorado Enterprises, LLC, of 12 Granison Road, Weston Massachusetts, 02493, hereinafter referred to sometimes herein as "Owner"; and Trilogy Resources, LLC, a Colorado Limited Liability Company, with office at 1151 Eagle Drive, #354, Loveland, Colorado 80537, hereinafter sometimes referred to as "Operator"; each of the foregoing sometimes referred to individually as a "Party," or collectively as the "Parties."

For and in consideration of the covenants and agreements contained herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. OWNERSHIP.

Owner is the surface owner of certain lands, such lands and improvements thereon hereinafter sometimes referred to as the "Lands", located in Weld County, Colorado more specifically described as follows:

TOWNSHIP 4 NORTH, RANGE 67 WEST, 6th P.M.
Section 7: Part of the SE/4

Operator, or its affiliates, owns a working interest in leases covering all or portions of the Lands or lands pooled or included in a spacing unit therewith (each a "Lease," collectively, the "Leases"). Additionally, Operator may have responsibilities under a Joint Operating Agreement ("JOA") with respect to the Lands.

2. OPERATOR'S OIL AND GAS OPERATIONS ON THE LANDS.

Operator intends to drill or cause to be drilled oil and/or gas wells on the Lands, as depicted approximately on Exhibit "A" attached hereto ("Wells"). In order for Operator to drill, construct, complete, produce, maintain, and operate the Wells and all facilities associated therewith, including, but not limited to, access roads ("Access Roads"), pipelines, flow lines, separators, tank batteries, electric lines and any other facilities, or property necessary for Operator to conduct operations on the Wells (each a "Facility," collectively, the "Facilities"), it is necessary that Operator enter and utilize a portion of the surface of the Lands.

The Parties enter into this Agreement to evidence their entire agreement regarding the payment of surface damages, entry, surface use, and any other matters relating to Operator's use of the Lands.

3. LOCATION.

The location of the Wells, the Access Roads to the well sites, pipelines, flow lines, separators, tank batteries, electric lines and other Facilities to be constructed on the Lands shall be as depicted on Exhibit A (which includes a site plan and a statement of specifications) attached hereto and incorporated herein. Any material changes to the locations and specifications of these Facilities (which

shall include, but not be limited to, any relocation by more than 5 feet) may be made by Operator only with the prior written consent of Owner, which consent shall not be unreasonably withheld, provided that Owner shall not be deemed to have been unreasonable in denying consent to any change that would increase interference with Owner's present use of the Lands or future potential use of the Lands as depicted in the Preliminary Development Concept Plan, attached hereto as Exhibit B and incorporated herein.

4. CONDUCT OF OPERATIONS.

Operator's operations on the Lands shall be conducted pursuant to the terms of the Leases, this Agreement, the rules and regulations of the Colorado Oil & Gas Conservation Commission ("COGCC"), and applicable Colorado statutes and case law.

5. COMPENSATION.

Operator agrees to pay owner the sum of [REDACTED] ("Amount") for the use of the wellsite pad and [REDACTED] for the use of the tank site prior to the commencement of any work by the Operator on the Lands. The Operator accepts the Lands "as is" prior to harvest and removal of growing crops. Owner and/or his tenant shall be compensated for damage or removal of growing crops if caused by Operator.

6. ADDITIONAL SURFACE USE PROVISIONS, ACCESS ROADS, FENCES AND FACILITIES.

With respect to its operations on the Lands, Operator shall comply with the following provisions:

A. Access Roads:

- (i) Access Roads shall not exceed 20 feet in width.
- (ii) Operator shall maintain all Access Roads in good repair and condition.

B. Surface Restoration:

Upon permanent cessation of Operator's operations on the Lands, all areas thereof occupied or utilized by Operator shall be restored by Operator to their original contour as nearly as is reasonably practicable and all wells, tank sites, and other related facilities shall be abandoned in a manner and condition to meet all federal, state, county, and Town of Johnstown rules, regulations, and laws within the time requirements.

C. Other:

- (i) Operator will install culverts on the Lands that may be necessary to maintain present drainage and irrigation otherwise affected by its operations on the Lands.
- (ii) If by reason of the activities of the Operator, including, but not limited to, drilling, completing, equipping, and operating the facilities, there is damage to personal

property of the Owner, its guests, employees, and tenants, including but not limited to, irrigation wells, fences, culverts, bridges, pipelines, ditches, irrigation systems, buildings, stored or growing crops, and equipment, Operator shall repair or replace such items after consultation with and to the reasonable satisfaction of the Owner, which repair or replacement shall be accomplished by Operator within twenty-one (21) days after final consultation with Owner. Operator shall make commercially reasonable efforts to notify Owner of any such damage promptly after it occurs.

(iii) Operator agrees that all trash, refuse pipe, equipment, liquids, chemicals, or other materials brought on the Lands that are not necessary for continued operations of the Wells shall be removed and disposed away from the Lands by Operator no later than 30 days after the completion of the Wells. No such items shall be burned or buried on the Lands by Operator.

(iv) Operator shall keep the wellpad free and clear of noxious weeds and trash during operations.

(v) Operator shall remove all guy line anchors for drilling and completion rigs promptly after Operator's rig use is completed.

(vi) Operator agrees to fence off the perimeter of the well sites with temporary fencing if reasonably requested by Owner. Operator will install cattle guards where necessary and shall be responsible for restoring Owner's existing fence to its original condition at any point of access. Operator shall not use the Lands for construction staging except as necessary to construct the Wells and Facilities located on the Lands and shall not use the Lands for the storage of materials, tools, and equipment except those necessary for the construction and operation of the Wells and Facilities located on the Lands. Operator shall not use the Lands for the storage of vehicles.

7. DEFAULT AND RIGHT TO CURE.

In the event of alleged default by Operator in the payment of any of the sums provided to be made, in obligations to be performed, or any other terms, conditions or covenants of this Agreement, Owner shall notify Operator of such alleged default in full and complete detail, in a writing delivered to Operator by certified mail, return receipt requested or hand delivery. Operator shall have thirty (30) days from its actual receipt of the written notification in which to pay, in the event of alleged non-payment, or to commence and diligently pursue a cure of the alleged default, and upon such lapse of time, should such alleged default still remain uncured, then and only then shall Owner have the right and option to declare a default under this Agreement.

8. WAIVER.

Except as otherwise agreed in a subsequent writing subscribed to by both parties, no waiver by owner of any breach by the Operator of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent or continuing breach of the same, nor shall any forbearance by Owner to seek a remedy for any particular alleged or actionable breach by the Operator be deemed to be a waiver by Owner of its rights or remedies with respect to any other alleged or actionable breach; however in no event shall Operator be liable for consequential damages.

9. **INDEMNITY/RELEASE.**

Operator agrees to indemnify, compensate, and hold Owner harmless from any and all claims, casualties, damages, and causes of action arising out of and caused by Operator's operations on the Lands, including, but not limited to, damages caused by operation of wells, pipe lines, roads, storage tanks, refrac, deepening, re-drilling, etc.

10. **NOTICE FOR ADDITIONAL OPERATIONS.**

Operator shall comply with COGCC rules and regulations requiring that advance notice be provided to Owner for subsequent operations on the Wells, including, but not limited to, reworking operations thereto.

11. **NOTICES.**

Notice by either Party shall be in writing and hand delivered and/or sent by United States mail, postage prepaid and addressed to either Party at the address designated below, or to such other place either Party may from time to time designate by written notice delivered in the way described in this paragraph to the other. Notice shall be effective when received. Each Party shall make reasonable efforts to alert the other party by telephone and/or email regarding notice matters. However, neither telephone nor email notices shall constitute sufficient notice hereunder.

Owner:

Keto Colorado Enterprises, LLC
ATTN: Eric Keto
12 Granison Road
Weston, MA 02493
Phone: (617) 335-7852

Operator:

Trilogy Resources, LLC
ATTN: Jeff Reale, Manager
1151 Eagle Drive, #354
Loveland, CO 80537
Phone: (303) 947-1387
Email: lam53@msn.com

12. **BINDING EFFECT.**

The covenants and conditions herein contained and all of the provisions of this Agreement shall inure to the benefit of and be binding upon the Parties hereto, and their respective heirs, representatives, successors and assigns.

13. **ENTIRE AGREEMENT.**

This instrument contains the entire agreement between the Parties and all prior negotiations and representations are merged within this instrument, and the terms of such may not be modified orally or in any other manner other than by agreement in writing signed by all Parties or their respective heirs, representatives, successors or assigns.

14. **TERMINATION.**

This Agreement shall remain in effect unless and until specifically abandoned by Operator in writing delivered to Owner, or filed by Operator in the records of Weld County, Colorado. In the event Operator, its successors or assigns, fails for any reason to produce, process, or

manufacture from and or on the Lands oil and gas in any continuous period of more than 365 days, such failure shall be deemed an intentional termination of this Agreement by the Operator. All rights to indemnification and requirements for reclamation and provisions relating thereto shall survive termination of this Agreement.

15. DEFECTS, DEFECTIVE CONDITION, ACTS OF THIRD PERSONS.

A. Owner's Liability. The Owner shall not be liable to the Operator for any damage or injury to the Operator or the Operator's property occasioned by any defect or defective condition on or about the Lands or occasioned by the act or omission of any third party, or from any other cause whatsoever, except such as may be caused by the Owner's gross negligence. The Owner shall not provide any security services for the Operator and assumes no responsibility for the protection or security of Operator's property against theft, vandalism or other third party actions whether the Operator's property is stored on the lands or on the adjacent property of the Owner. Operator's property as used in this paragraph shall mean and refer to the property of the Operator, its employees, guests, invitees, and contractors.

B. Waiver of Claims Against Owner. All claims against the Owner for any damage or injury to the Operator or the Operator's property are hereby expressly waived by the Operator, except such damage or injury as may be caused by the Owner's gross negligence.

16. INSURANCE.

A. The Operator shall, at Operator's own expense, at all times during the term of this Agreement, maintain in force a policy or policies of insurance, written by one or more responsible insurance carriers, which shall insure the Owner and the Operator against liability for injury to or death of persons or loss or damage to property occurring in or about the Lands. Operator will carry all insurances required by Colorado law. These include Worker's Compensation and employer's liability insurances with at least \$1,000,000 coverage per accident, Comprehensive general liability insurance coverage of at least \$1,000,000 per accident, Comprehensive automobile / truck / mobile equipment and property damage insurance with coverage of at least \$1,000,000, and Excess liability insurance for all of these coverage's with at least \$5,000,000 per accident. Operator will include Owner as an additional insured on all policies.

17. INDEMNIFICATION OF OWNER.

A. Liens and Encumbrances. The Operator shall indemnify the Owner and the Lands and all improvements placed thereon against all claims, liens, claims of lien, demands, charges, encumbrances or litigation arising directly or indirectly out of or by reason of any work or activity of the Operator on the Lands and shall forthwith, within one hundred and twenty (120) days after the filing of any lien of record, fully pay and satisfy the same and reimburse the Owner for all loss, damage, and expense, including reasonable attorney's fees, which the Owner may suffer or be put to by reason of any such claims, liens, demands, charges, encumbrances or litigation. If the Operator desires to contest any such claim or lien, the Operator may do so in which event the Owner shall not have the right to pay such claim or lien. In the event the Operator shall fail to pay and fully discharge any claim, lien, demand, charge, encumbrance or litigation, or should proceedings be instituted for the foreclosure of any lien or encumbrance, the Owner shall have the right, at the Owner's option, at any time after the expiration of the one hundred and twenty (120) day period following such demand, to pay the same or any portion thereof, with or without the costs and expenses claimed by such claimant. All amounts so paid by the Owner shall be

repaid by the Operator to the Owner upon demand, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of payment by the Owner until repayment is fully made.

B. Personal Injuries, Violation of Law. The Operator shall indemnify the Owner and the Lands against any cost, liability or expense, including consequential damages, arising out of any claims of any person or persons whatsoever by reason of the use or misuse of the Lands by the Operator, or the conduct of the business from the Lands, and shall indemnify the Owner against any penalty, damage, consequential damages or charge incurred by reason of any use, misuse conduct of the Operator or violation of law or ordinance by the Operator, its assigns, successors, employees, agents, and contractors.

18. TRANSFER OR PLEDGE OF THIS AGREEMENT.

The Operator shall not assign this Agreement or any interest therein, nor rent the Lands or any part thereof, nor license the use of all or any portion of the Lands or business conducted thereon or therein, nor encumber or hypothecate this Agreement without first obtaining the written consent of the Owner; and any assignment, renting, licensing, encumbering or hypothecating of this Agreement without such prior written consent shall, at the option of the Owner, terminate this Agreement.

19. SUBORDINATION OF AGREEMENT.

The Operator shall execute any instrument permitting a mortgage or deed of trust to be placed on the Lands or any part thereof as security for any indebtedness and subordinating this Agreement to such mortgage or deed of trust if required to do so by the secured party.

20. INDEMNIFICATION.

Operator shall indemnify, protect, defend, and hold Owner and Owner's successors and assigns, and the directors, officers, shareholders, employees, agents, guests, and contractors of Owner, and of Owner's successors and assigns (Indemnified Party"), harmless for, from, and against any and all claims (including without limitation third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including both formal and informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims), interest and losses, including reasonable attorneys' and paralegals' fees and expenses (including any and all such fees and expenses incurred in enforcing this Agreement or collecting sums due hereunder), consultant fees and expert fees, together with all other costs and expenses of any kind or nature (collectively, the "Costs") that arise directly or indirectly from or in connection with the presence, suspected presence, release or suspected release of any Hazardous Substance in the Lands or in or into the air, soil, groundwater or surface water at, on, about, above, under, or within the Lands, or any portion thereof and are determined to have their source or cause from Operator's business on said lands. The indemnification provided in this paragraph shall specifically apply to and include claims or actions brought by or on behalf of employees of the Operator or of any past, present or future tenants, occupants or other users of the Lands, and Operator will join and cooperate in the defense of any claim or action brought by or on the behalf of an employee of the Operator. Without limiting the generality of the foregoing, the indemnification provide by this section shall specifically cover Costs, including capital, operating, and maintenance costs, incurred in connection with any investigation or monitoring offsite conditions, any cleanup, containment, remedial, removal or restoration work required or performed by any federal, State or local government agency or political subdivision or performed by a nongovernmental entity or person because of the presence, suspected presence, release or suspected release of any Hazardous Substance in the Lands into the

air, soil, groundwater or surface water at, on, about, above, under or within the Lands (or any portion thereof) and any claims of third parties for loss or damage due to such Hazardous Substance that are determined to have their source or cause from Operator's business on the lands. In addition, the indemnification provided by this section shall include, without limitation, all loss or damage sustained by Owner or any other Indemnified Party due to any Hazardous Substance; (a) that is present or suspected to be present in the Lands or in the air, soil, groundwater or surface water at, on, about, above, under or within the Lands (or any portion thereof) at any time; or (b) that migrates, flows, percolates, diffuses or in any way moves onto, into or under the air, soil, groundwater or surface water at, on, about, above, under or within the Lands (or any portion thereof) at any time that are determined to have their source or cause from Operator's business on said lands. Notwithstanding anything to the contrary set forth in this Agreement, the indemnification provided by this section shall not extend to any Cost incurred by an Indemnified Party that are finally determined by a court of competent jurisdiction to have been incurred as a result of such Indemnified Party's gross negligence or intentional misconduct.

21. COUNTERPARTS.

This Agreement shall be executed in duplicate originals, each party to retain one such original. This Agreement shall be binding if properly signed and fully executed and sent by facsimile transmitted to the other Parties. Without affecting the validity of the foregoing manner of execution, the Parties agree to follow up such facsimile executions with standard paper originals signed by the Parties as soon as may be practical.

22. GOVERNING LAW AND VENUE.

This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of Colorado; and Weld County, Colorado, shall be the forum for resolution of all disputes under this Agreement.

23. FORCE MAJEURE.

The passage of any deadline or time relevant under this instrument shall be deemed tolled, and nonperformance of any required obligation that Operator may have under this instrument shall be excused without penalty to Operator as to any time period in which Operator is prevented from performing such obligation, despite commercially reasonable efforts to do so, due to: (i) any governmental action or inaction; (ii) force majeure including any act, warning or threat of terrorism, war, revolution, rebellion, insurrection, riot, civil commotion, blockade, embargo, strike, lockout, picketing, boycott or damage by earthquake, fire, hurricane, tornado, flood, wind, storm, temperature extreme or other weather instability, disaster or condition; or (iii) market factors such as shortage of necessary expertise, shortage or lack of transportation and delivery of necessary tools, equipment, material, and supplies due to market conditions provided that Operator has taken commercially reasonable steps to anticipate such market factors and to find alternative means to perform the relevant obligation.

24. TIME OF THE ESSENCE.

Time is of the essence of each and every provision hereof.

25. HEADINGS FOR CONVENIENCE ONLY.

The headings used herein are for convenience and shall not be resorted to for purposes of interpretation or construction hereof.

26. **AMENDMENTS TO BE IN WRITING.**

This Agreement may be modified or amended only by a writing duly authorized and executed by both the Owner and the Operator herein. It may not be amended or modified by oral agreements or understandings between the Parties unless the same shall be reduced to writing duly authorized and executed by both the Owner and the Operator.

27. **ATTORNEY'S FEES AND COSTS.**

If any breach of a Party's obligations under this Agreement occurs or if any dispute arises relating to the interpretation, enforcement or performance of this Agreement, the prevailing party shall be entitled to collect from the other party all fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators, and court reporters. Without limiting the generality of the foregoing, the non-prevailing party shall pay all such fees and expenses incurred in connection with (a) arbitration or other alternative dispute resolution proceedings, trial court actions, and appeals; (b) all preparation for any of the foregoing; and (c) all settlement costs.

28. **AUTHORITY OF SIGNATORIES.**

The signatories below declare, warrant and represent that they have the authority to enter into this Agreement on behalf of their respective principals, if any.


29. **BINDING EFFECT.**

This Agreement constitutes a covenant running with the Lands and shall be binding upon and inure to the benefit of, and be enforceable by, the Parties and their respective successors, affiliates, administrators, trustees, authorized representatives, executors and assigns.

DONE effective the date first written above, by the parties:

OWNER:
Keto Colorado Enterprises, LLC

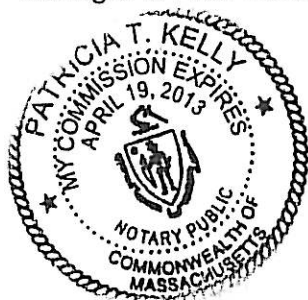
OPERATOR:
Trilogy Resources, LLC

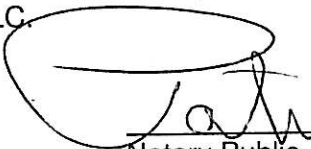
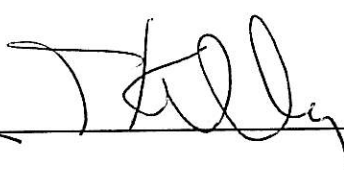

By: Eric Keto


By: Jeff Reale, Manager

STATE OF MASSACHUSETTS)
COUNTY OF MIDDLESEX) ss.

Subscribed and sworn to before me this 20th day of February, 2012, by Eric Keto,
Manager of Keto Colorado Enterprises, LLC.




Notary Public

Patricia T. Kelly

My commission expires: 2/19/2013

STATE OF Colorado)
COUNTY OF Larimer) ss.

Subscribed and sworn to before me this 22 day of ~~December~~ ^{February 2012} 2011, by Jeff Reale,
Manager of Trilogy Resources, LLC.



Jessica Reale
Notary Public
My commission expires: 8/13/2013

KETO FAMILY FARM

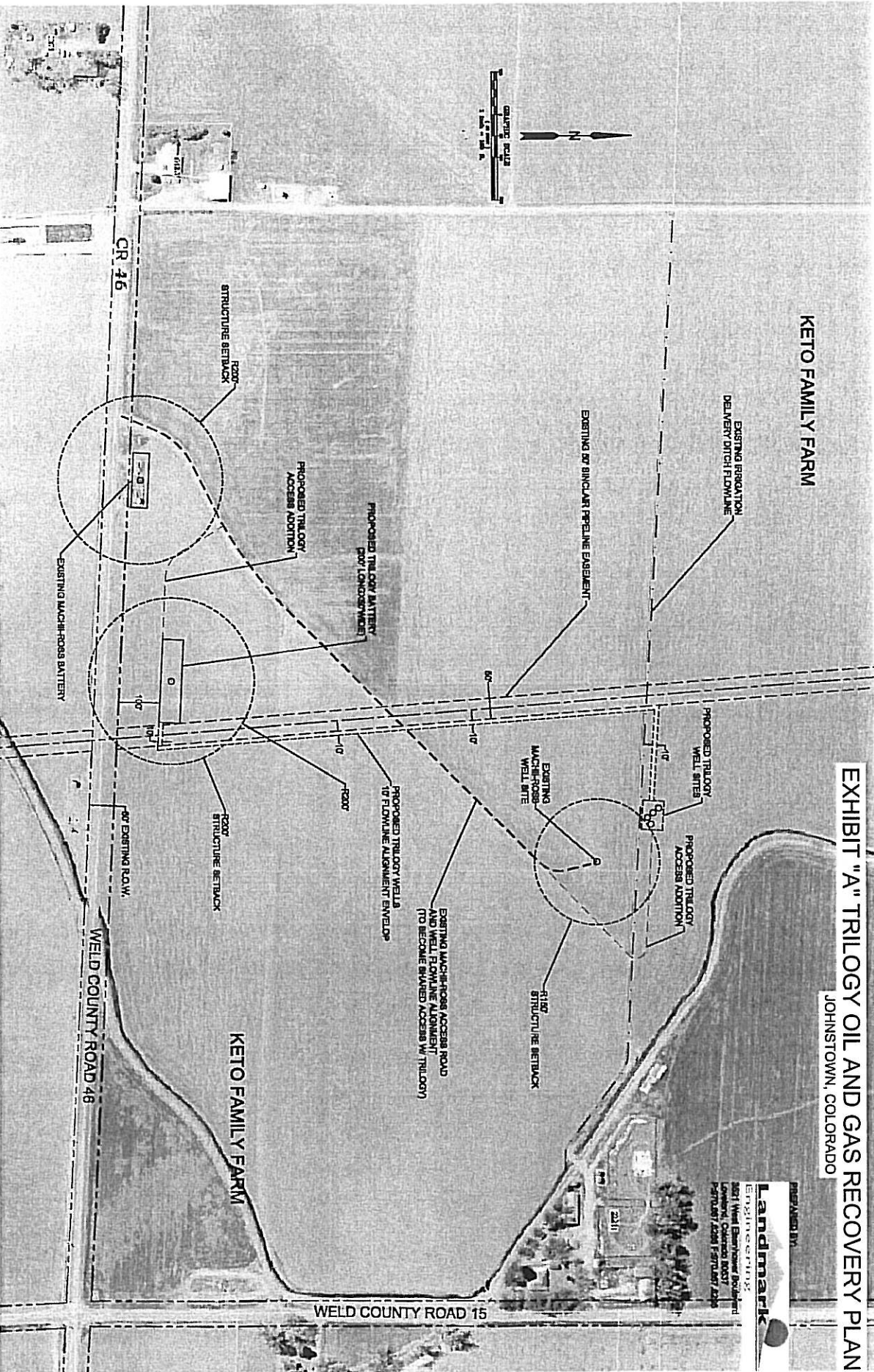
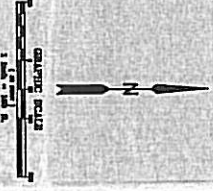
EXHIBIT "A" TRILOGY OIL AND GAS RECOVERY PLAN

JOHNSTOWN, COLORADO

PREPARED BY

Landmark

ENGINEERING
2021 West Eisenhower Boulevard
Lawrence, Kansas 66047
P-270187 / 2281 P-270187 2281



“Exhibit A-1”

**General Specifications for Oil and Gas Recovery on the Keto Farm (Johnstown)
between
Keto Colorado Enterprises, LLC (Owner) / Trilogy Resources, LLC (Operator)**

This “Exhibit A-1” (Exhibit) seeks to generally support the understanding and agreement made between the parties listed above within the body of the Surface Use Agreement (SUA) to which this Exhibit is attached. The following describes in part the facilities, appurtenances, activities and locations that shall be installed and take place on the Keto Farm (Farm) shown on attached Exhibit A in order to provide for the Operator’s oil and gas operations on the land shown thereon. Should any part of this Exhibit be interpreted to contradict the main body of the SUA language to which this Exhibit is attached, the SUA language shall supersede.

The Operator and its subcontractors will be allowed to access and perform general operations on the Farm for the purpose of oil and gas recovery, in a manner such that reasonable care is taken to cause the least amount of disturbance to the Farm or it’s crops while installing, operating and maintaining the facilities and accessories discussed and partially shown within this Exhibit and Exhibit A. The Operator and its subcontractors will take access to the facilities and areas shown on Exhibit A as “Proposed Trilogy” items through the Existing Machii-Ross Access Road and the Proposed Trilogy Access Addition Roads. During construction, drilling operations and maintenance of the facilities and appurtenances, the Operator and its subcontractors may at times, temporarily occupy the land immediately surrounding the facilities and appurtenances in order to ensure the proper installation and normal operation of the recovery systems.

The Operator’s facilities, equipment and appurtenances will consist of, but not be limited to, the following equipment or its equivalent; this is not an exhaustive list.

Battery / Facility

- 3 - 300 bbl welded steel oil stock tanks 12' W x 15' H w/ built to API tank specs
- 2 - 300 psi UBC stamped and coded oil and gas separators 30' X 10' w/ upright gas bottle
- 1 - 150 bbl fiberglass water tank 8' high buried to 4'
- 1 - 48" vertical ECD (emissions control device)
- misc schedule 80 2" steel distribution lines for High pressure service and misc 2" poly pipe lines for low pressure service (waiting on pipe specs)
- 1 - poly load line containment bucket approx 5 bbls
- Facility containment will be earthen dike style and engineered to SPCC requirements

Well surface equipment (4 each)

- 1 - 8 5/8" X 4 1/2 " casing head rated to 2000 psi
- 1 - 4 1/2" X 2 3/8" Tubing head rated to 3,000 psi
- 1 - 2 3/8 " master valve rated to 3,000 psi
- 1 - Plunger lift wellhead assembly rated to 3,000 psi
- Misc valves and fittings all rated to 3,000 psi
- 4 - 4' H x 10' corral style well head guards

“Exhibit A-1”

Well Sub-Surface equipment (4 each)

- 500' +/- 8 5/8" 24 # /ft. surface casing J-55 cemented to surface
- 7400 - 7650 ' 4 1/2" 11.5# 80 grade casing cemented to +/- 3,000' from surface, tested to 6500 psi
- 7300 ' +/- 2 3/8" J-55 tubing tested to 10,000 psi

Flow line piping and construction specs (up to 4 each)

- Flowlines are 2" steel fusion bond coated welded steel pipe
- Flowlines buried to a minimum of 48" cover throughout their length
- Flowlines tested to 1.5 X anticipated working pressure maximums
- Flowline pipe, fittings, and equipment will all have the same spec and will have manufacturing paperwork (MTR's) included in the job book
- 100% of the welds will be x- rayed and mapped
- An alignment sheet or "as built" survey will be provided which will include all PI's and all bores will be profiled and included in the drawings
- Long radius fittings will be used at all PI's to insure line is capable of running a "smart pig" for electronic surveillance
- A complete job book including all pipe, fittings, and equipment certifications, x-ray information, alignments sheets and crossing profiles, and pertinent construction details will be made and kept on file

The proposed facilities and appurtenances mentioned above and shown on Exhibit A shall be constructed in the general areas shown thereon, with the exception of the tank battery. The tank battery will be in a more precise location and shall have an envelop which is 200' long by 50' wide and shall be surrounded by fencing for security. The battery envelop shall set 100' north of the existing 60' Weld County Road (WCR) 46 Right-of-Way and immediately west of the existing 50' Sinclair easement. Refer to Exhibit A for general locations of other proposed accesses and equipment.

(Rest of sheet intentionally left blank)