

PLANNING AND DEVELOPMENT MEMORANDUM
#11-21

October 27, 2011

TO: Honorable Joyce Downing and City Council Members

FROM: William Simmons, City Manager *WAS*
Corey Hoffmann, City Attorney
David Willett, Public Works Director
Travis Reynolds, Senior Planner *TR*

SUBJECT: CR-104 Surface Use Agreement, Kerr-McGee Oil and Gas Operations, Section 36

BACKGROUND INFORMATION

Attached to this memorandum is a proposed resolution, which, if approved, would allow for the use of the Surface and City rights-of-way by Kerr McGee of City-owned property for the natural gas drilling that is the subject of the Permitted Use Permit public hearing and application under Article 56 of Chapter 11 of the City of Northglenn Municipal Code.

ANALYSIS

The City through both the Public Works Director and the Community Planning and Development department has been working with Kerr-McGee regarding the location of the well facilities and associated infrastructure on City-owned property in Section 36. Kerr-McGee has an existing right to use the property based on an Agreement with the State of Colorado from several decades ago. Nonetheless, the City has negotiated compensation for the Surface Use Agreement that will be provided to the City Council via separate confidential communication.

For purposes of this analysis, staff recommends approval of the attached Resolution based on the following:

1. The negotiated location of the well sites and associated facilities and infrastructure are advantageous to the City to allow for future development;
2. The negotiated location of the well sites and associated facilities and infrastructure provide for the clustering of the well heads;
3. The negotiated location of the well sites and associated facilities and infrastructure provide for the dual use of the access road (to be constructed by the applicant) for both Kerr-McGee and the City;
4. The negotiated location of the well sites and associated facilities and infrastructure minimize the impact on the City's application of biosolids on Section 36;

5. The negotiated location of the well sites and associated facilities and infrastructure minimize crop loss within Section 36; and

6. The negotiated location of the well sites and associated facilities and infrastructure do not have any potential conflicts with the future expansion of the City's wastewater treatment plant.

STAFF REFERENCE:

If Council members have any comments or questions they may contact David Willett, dwillett@cityofnorthglenn.org; Travis Reynolds, treynolds@cityofnorthglenn.org, or Corey Hoffmann at cyhoffmann@hphclaw.com.

ATTACHMENTS

Exhibit A – Surface Use Agreement

Exhibit B – Right of Way Agreement

SPONSORED BY: MAYOR DOWNING

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-104
Series of 2011

Series of 2011

A RESOLUTION APPROVING A SURFACE USE AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND KERR-MCGEE OIL & GAS ONSHORE LP, AND APPROVING A RIGHT-OF-WAY EASEMENT AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND KERR-MCGEE GATHERING LLC

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The City Council hereby approves the Surface Use Agreement between the City of Northglenn and Kerr-McGee Oil & Gas Onshore LP, attached hereto as **Exhibit A**, and authorizes the Mayor to execute the same on behalf of the City.

Section 2. The City Council hereby approves the Right-of-Way Easement Agreement between the City of Northglenn and Kerr-McGee Gathering LLC, attached hereto as **Exhibit B**, and authorizes the Mayor to execute the same on behalf of the City.

DATED, at Northglenn, Colorado, this _____ day of _____, 2011.

JOYCE DOWNING
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

SURFACE USE AGREEMENT

This Surface Use Agreement (“**Agreement**”) is dated and made effective this ____ day of _____, 2011, and is between Kerr-McGee Oil & Gas Onshore LP (“**KMG**”) with an address of 1099 18th Street, Suite 1800, Denver, CO 80202, and The City of Northglenn (collectively hereinafter referred to as “**Surface Owner**” or “**City**”) all with an address of 11701 Community Center Drive, Northglenn, Colorado 80233.

- A. Surface Owner owns the surface estate of that certain tract of land more particularly described on Exhibit “A” attached hereto, being part of the S/2 of Section 36, Township 1 North, Range 68 West, Weld County, Colorado (hereinafter referred to as the “**Property**”);
- B. Surface ownership of the Property is subject to the rights of the oil and gas mineral leasehold estate, a portion of which is owned by KMG;
- C. KMG currently operates two (2) well(s) on the Property, known as the HSR-Northglenn State 13-36 and the Hog Unit #1 (the “**Existing Well(s)**”) generally located in the Center of the SE/4 and in the Center of the SW/4 of Section 36, described above, and has the right to develop its oil and gas leasehold estate by drilling additional wells (the “**Future Well(s)**”) on the Property; and
- D. This Agreement sets forth the parties’ rights and obligations regarding the relationship between the development of the Property by Surface Owner and KMG concerning KMG’s operation and development of its oil and gas leasehold estate underlying the Property, such rights and obligations to be binding upon the parties’ successors and assigns.

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. OIL AND GAS OPERATIONS.

Surface Owner shall set aside and provide to KMG that portion of the Property hereinafter referred to as the “**Oil and Gas Operations Area(s)**” (“**OGOA(s)**”), such area(s) being depicted on **Exhibit “B2”** attached hereto. The OGOA(s) are to be made available to KMG for its exclusive use in their present condition for any operations conducted by KMG in connection with the Existing Well or any Future Well, including, but not limited to, the wells set forth on Exhibit B2, and for the drilling and production activities, workovers, well deepenings, recompletions, fracturing, re-fracturing and replacement wells. Except for the OGOA(s), and the access roads and easements associated with flowlines, gathering lines and pipelines as provided in this Agreement or associated Right-of-Way Easement Grant, neither KMG or KMG shall occupy the surface of the Property except in the event of an emergency or for reasonable incidental, temporary and non-damaging activities, for which KMG shall be strictly and solely responsible for any damages that may occur.

a. ***Well Locations.***

KMG shall have the right to drill Future Wells within the OGOA(s), including vertical wells, horizontal and/or directional wells that produce and drain the Property and lands other than the Property, so long as such locations are permitted locations under the then applicable well spacing and location regulations of the Colorado Oil and Gas Conservation Commission (“COGCC”) or exceptions granted thereto by the Director of the COGCC. As part of the consideration for this Agreement, and so long as not inconsistent with this Agreement, Surface Owner hereby waives its right to, and covenants that it shall not protest or object to any such exception location or application for same by KMG. KMG shall not otherwise have the right to drill new wells on the Property unless the Surface Owner agrees otherwise.

b. ***Production Facilities.***

KMG shall have the right to locate, build, repair and maintain tanks, separators, dehydrators, compressors and other equipment reasonably appropriate for the operation and production of the Existing Well(s) or any Future Wells only within the OGOA(s), unless agreed otherwise by the Surface Owner.

With respect to KMG’s equipment and facilities other than flowlines or pipelines:

- (i) KMG shall install and maintain, at its sole cost and expense, all fences around the Existing Well(s) and any Future Wells in compliance with the Rules and Regulations of the COGCC and local rules and regulations in effect at the time KMG files an application for a permit to drill with the COGCC. The fence material may be upgraded at Surface Owner’s option and expense, so long as the upgrade complies with COGCC and local rules and regulations and KMG consents to such upgraded fence. KMG shall not unreasonably refuse Surface Owner’s request to upgrade the fence material, which consent shall not be unreasonably withheld. If the Surface Owner has development plans not inconsistent with the terms of this Agreement and requires a zoning change(s) or annexation, Surface Owner shall pay the cost and expense for the upgraded fence material required by the zoning change or annexation;
- (ii) KMG shall install and maintain, at its sole cost and expense, all gates and locks reasonably necessary for the security of any wells or facilities in the OGOA(s). Such gates and locks shall be the standard gates and locks used by KMG;
- (iii) KMG shall paint any production facilities for any wells, including wellhead guards, with paint that is approved by the COGCC; and

- (iv) Surface Owner shall not inhibit KMG's access to the OGOA(s) or inhibit KMG's operations within the OGOA(s) by landscaping development, or other use or improvements, unless otherwise agreed upon between Surface Owner and KMG.

c. ***Setback Requirements.***

Surface Owner will not locate or plat any lot line, building, or structure within 150' of the boundary of any OGOA or within any OGOA. Surface Owner understands and acknowledges that the COGCC has rules and regulations that apply to the distance between a wellhead and public roads, production facilities, building units and surface property lines, among other things.

2. Gathering Lines, Flowlines, and Easements.

a. ***Existing and Future Pipelines.***

Subject to the limitations hereinafter described, KMG, its affiliate Kerr-McGee Gathering LLC ("KMGG") or other designated gas gatherer has a continuing right and entitlement to own, operate, maintain, repair and replace all flowlines, gathering lines and other pipelines that may be necessary or convenient to its operations on the Property. Although this Agreement and the associated Right-of-Way Easement Grant, is intended to confine the placement of those pipelines to certain specified locations within the Property, nothing herein shall be construed as a limitation on KMG's, KMGG's or other designated gas gatherer ultimate right to make all necessary well connections to any Existing or Future Well. The future development plans for Northglenn may necessitate the lowering of certain existing gathering lines or flowlines ("**Existing Pipelines**") that are currently in a designated easement corridor shown on Exhibit "B2" as the "**Petroleum Pipeline Easement.**" It is further anticipated that any additional pipelines, flowlines and gathering lines that may be required in the future ("**Future Pipelines**") may also need to be placed within the Petroleum Pipeline Easement. If a certified survey has not been completed for the Existing Pipelines or the Future Pipelines, then the location of such pipelines on Exhibit "B2" are only approximate locations.

If it has not already done so, Surface Owner shall also deliver to KMG or KMGG an executed and acknowledged Pipeline Right-of-Way Easement Grant on the form that is attached hereto as Exhibit "C" in order to convey the Petroleum Pipeline Easement lands as shown on Exhibit "B2". Prior to execution and acknowledgement of the Right-of-Way Easement Grant by Surface Owner, KMG or KMGG will complete a certified survey and submit a plat of the certified survey to the Surface Owner if the pipelines have been constructed. If any pipelines are anticipated for further construction, Surface Owner will execute and deliver a Right of Way Grant and KMG or KMGG will complete an "as-built" survey when construction is completed and submit the same to the Surface Owner. The "as-built" survey will be attached to the Right of Way Grant and the Grantee may record the same.

b. ***Petroleum Pipeline Easement.***

The Petroleum Pipeline Easement shall be fifty feet (50') in width during construction, installation or relocation operations and otherwise reduced to forty feet (40') in width for post-

construction usage. All relocated and Future Pipelines owned by KMG or KMGG shall be located within the Petroleum Pipeline Easement unless otherwise agreed upon between Surface Owner and KMG or KMGG. KMG acknowledges that the Petroleum Pipeline Easement will be non-exclusive and agrees that it will not object to its concurrent use by other oil and gas operators or utilities, as Surface Owner may grant from time to time, so long as such other parties comply with KMG's pipeline guidelines, attached hereto as Exhibit "D". Notwithstanding the foregoing, Surface Owner shall not permit, nor shall it place any other utility or structure within ten feet horizontally or two feet vertically of any KMG pipeline. The Petroleum Pipeline Easement and OGOA(s) shall be depicted and labeled on all subdivision plats submitted to Weld County.

KMG shall not, without the prior written consent of Surface Owner, have the right to lay additional flowlines or pipelines on the Property, outside the Petroleum Pipeline Easement. All flowlines and pipelines shall be buried to a depth of not less than approximately 48 inches from the surface. Surface Owner shall maintain a minimum of 48 inches and not more than 72 inches of cover over all pipelines and flowlines during any of Surface Owner's operations on the Property. The construction and burying of additional flowlines, gathering lines and pipelines shall be at the sole cost and expense of KMG or its gas purchaser.

c. ***Pipeline Crossings.***

If Surface Owner's development plans anticipate that roadways will or may in the future cross over existing Pipelines, Surface Owner will pothole or request that KMG pothole the Existing Pipelines or Future Pipelines to check the depth of such Pipelines. Prior to Surface Owner's installation of a new roadway, KMG or KMGG at its own cost and expense, will lower, as required and if technologically and operationally feasible, the affected Existing or Future Pipelines to sufficient depth for the road elevations.

3. SUBJECT TO EXERCISE OF THE CITY'S POLICE POWER

Except as specifically provided in this Agreement, nothing herein shall be construed to be a waiver by the City of its police power or its legislative authority to make decisions regarding the exercise of its generally applicable land use authority. In addition, nothing herein shall be deemed a waiver of KMG's obligation to obtain applicable City of Northglenn approvals including any land use approvals under Chapter 11 of the Northglenn Municipal Code, and any other approvals required by Chapter 16 of the Northglenn Municipal Code based on the fact that Property that is the subject of this Agreement is public property.

Furthermore, by execution of this Agreement, KMG does not waive its position that it is not required to have a surface use agreement in order to apply for, or be granted, State or local permits, or otherwise commence drilling operations within COGCC legal drilling windows.

4. ACCESS.

Surface Owner shall provide KMG with continuous access to all of the OGOA(s) and the Petroleum Pipeline Easement. The access roads to be used by KMG will either be those roads that currently are in place and identified on the exhibits to this Agreement or those that are anticipated to be constructed by Surface Owner at its sole cost and expense as part of Surface

Owner's development of the Property. All access roads, whether existing or newly constructed, shall be of sufficient scope to allow KMG to conduct its oil and gas operations and shall be at least 40 feet in width and built to withstand a minimum of 104,000 pounds and 26,000 pounds per axle. KMG agrees to access the Property according to the routes depicted and described on the attached Exhibit "B2". If and when new access routes are constructed by Surface Owner, Surface Owner agrees to provide KMG notice of such but KMG may continue to use its present access routes until that time and until receipt of such notice from Surface Owner.

5. NOTICE OF FUTURE OPERATIONS.

KMG shall provide at least seven (7) days written notice to Surface Owner prior to commencing actual operations in connection with the reworking, fracturing, deepening or recompletion operation on the Existing Well(s) or any Future Wells; provided, however, that KMG shall provide at least thirty (30) days written notice to Surface Owner and/or any homeowner's association formed by Surface Owner that is associated with the Property prior to commencing the drilling of any Future Wells. Regardless of the foregoing notice requirements, KMG shall have immediate access to any of its facilities in the event of an emergency.

After receipt of the above notice, but not less than five (5) working days prior to KMG's mobilization on the applicable OGOA(s), either KMG or Surface Owner may request an on-site meeting. The purpose of the meeting shall be to inform Surface Owner of the expected activity and to coordinate site access, hazards, barricades, restoration or any other issues that affect the use and safety of Surface Owner's development.

6. NOTICE TO HOMEOWNERS, BUILDERS, TENANT FARMERS AND OTHER SURFACE LESSEES.

To the extent required by law, Surface Owner shall furnish all buyers of the Property from Surface Owner, current and future tenant farmers and other surface lessees with a plat or map showing the OGOA(s) and the Petroleum Pipeline Easement. In addition, Surface Owner shall provide notice to all builders, homeowners, homeowner associations, other buyers of the Property from Surface Owner, current and future tenant farmers and other lessees that:

- a. There may be ongoing oil and gas operations and production in the OGOA(s) on the surface of the Property;
- b. There are likely to be additional Future Wells drilled and oil and gas operations and production from the OGOA(s) that affect the surface of the Property;
- c. Heavy equipment may be used by KMG from time to time for oil and gas production operations and that such operations may be conducted on a 24 hour basis;
- d. Future purchasers of all or a portion of the Property, as successors in interest to Surface Owner, will be acquiring a proportionate interest in Surface Owner's rights under this Agreement and assuming those obligations undertaken by Surface Owner pursuant to this Agreement; and

- e. Homeowner associations and buyers of individual lots or homes, as successors in interest to Surface Owner, will be acquiring a proportionate interest in Surface Owner's rights under this Agreement, and will be subject to the waivers contained herein, including but not limited to, in Sections 1, 7 and 9, and the covenants contained in Section 1 prohibiting the location of any building or structure within the OGOA(s) or the Petroleum Pipeline Easement and waiving objection to any setback rules of the COGCC or any local jurisdiction.

7. DRILLING AND COMPLETION OPERATIONS.

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

8. 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 any 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 9 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.

9. ENVIRONMENTAL INDEMNITY.

The provisions of Section 8 above, except for Section 8.a., shall not apply to any environmental matters, which shall be governed exclusively by the following, subject to the limitations of Section 8.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 interest, 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, obligation, 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); and
- c. Environmental Indemnification. KMG shall protect, indemnify, and hold harmless Surface Owner, homeowners association and any lot owner who purchases a lot from Surface Owner from any Environmental Claims relating to the Property or oil and gas leasehold thereunder that arise out of KMG’s ownership and operation of the OGOA(s) and its ownership and operation of its pipeline easement or rights-of-way on the Property. Surface Owner shall fully protect, defend, indemnify and hold harmless KMG from any and all Environmental Claims relating to the Property that arise out of Surface Owner’s development of the Property.

10. EXCLUSION FROM INDEMNITIES.

The indemnities of the parties herein shall not cover or include any amounts 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.

11. 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 9 or 10 above, it is a condition precedent to the indemnifying party’s obligations hereunder that the indemnified party give the indemnifying party written notice of such 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 five days of receipt of a Claim and shall affect such notice in all events within such time as will allow the indemnifying party to defend against such Claim.

12. REPRESENTATIONS.

Each party represents that it has the full right and authority to enter into this Agreement. Specifically, the City affirms that all terms and conditions of that certain Installment Land Contract dated July 12, 2001 between Dorothy M Jacobucci Limited Partnership, Victor L. Jacobucci Trust and the City of Northglenn, recorded in Weld County Colorado on August 27,

2001 at Reception No. 2878082 have been met and that the City holds title to the Property and able to execute this Agreement. KMG does not represent that it has rights to settle matters for all of the mineral owners or any other lessees in the Property and this Agreement shall only apply to and bind the KMG leasehold interest in the property.

13. SUCCESSORS.

The terms, covenants, and conditions hereof shall be binding upon and shall inure to the benefit of the parties and their respective heirs, devisees, executors, administrators, successors and assigns; provided, as to KMG, successors and assigns shall be deemed to be limited to lessees under the oil and gas leases which KMG owns.

14. TERM.

This Agreement shall become effective when it is fully executed and shall remain in full force and effect until KMG's leasehold estate expires or is terminated, and KMG has plugged and abandoned all wells, Existing and Future included, owned all or in part by KMG and complied with the requirements of all applicable oil and gas leases pertaining to removal of equipment, reclamation, cleanup and all other applicable provisions of the leases and existing laws and regulations.

15. NOTICES.

Any notice or other communication required or permitted under this Agreement shall be sufficient if deposited in U.S. Mail, postage prepaid, addressed to each of the following:

If to KMG:

Kerr McGee Oil & Gas Onshore LP
1099 18th Street, Suite 1800
Denver, Colorado 80202
Attention: Director of Land Denver Basin

If to Kerr-McGee Gathering

Kerr-McGee Gathering LLC
1099 18th Street, Suite 1800
Denver, CO 80202
Attention: Wattenberg Area Midstream

If to Surface Owner:

City of Northglenn
P.O. Box 330061
Northglenn, Colorado 80233-8061
Attention: Public Works Department

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

16. RECORDING AND SUBORDINATION.

A memorandum of this agreement and any amendment hereto shall be recorded by KMG. KMG shall provide the Surface Owner with a copy showing the recording information as soon as practicable thereafter.

17. SURFACE DAMAGES.

Upon execution of this Agreement and payment of the consideration agreed upon and associated with the necessary right-of-way permits and right-of-way grants attached hereto, Surface Owner hereby waives all other surface damage payments pursuant to any COGCC or local regulation, state statute, common law or prior agreement, for each and every well that is drilled, tank battery and emissions control device located on the Property within the OGOA(s) and also including but not limited to any access road, flowline, or pipeline constructed within the Petroleum Pipeline Easement. KMG may provide a copy of this Agreement to the COGCC as evidence of this waiver.

18. 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.

19. ENTIRE AGREEMENT.

This Agreement sets forth the entire understanding among the parties hereto 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 all parties.

20. 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, and shall be binding upon and inure to the benefit of the parties, and each of their respective heirs, executors, administrators, successors and assigns and is executed by the parties as of the Effective Date set forth above.

21. COMPLIANCE WITH REGULATION.

Surface Owner expressly acknowledges that this Agreement satisfies KMG's obligation under COGCC rules 305 and 306, as amended, to consult in good faith with the Surface Owner regarding the proposed oil and gas operations. Surface Owner further expressly acknowledges that this Agreement shall be deemed to be specifically applicable to and to fully satisfy, the obligation of KMG to accommodate Surface Owner's use of the surface of the Property, existing

or future, and waives any statutory or common law claims with respect thereto, except for actions to enforce this Agreement or obtain damages for its breach.

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

KERR-McGEE OIL & GAS ONSHORE LP

By: _____

Jane Ann Byroad
Agent and Attorney-in-fact

KERR-McGEE GATHERING LLC (limited to the provisions of Section 2 of this Agreement)

By: _____

Ronald Olsen
Agent & Attorney-in-Face

CITY OF NORTHGLENN

ACKNOWLEDGMENTS

STATE OF TEXAS)
)ss.
COUNTY OF MONTGOMERY)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by Jane Ann Byroad, as Agent and Attorney-in-Fact of Kerr-McGee Oil & Gas Onshore LP and Kerr-McGee Gathering LLC, on behalf of such corporations.

Witness my hand and official seal.

Notary Public

My Commission Expires: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of
_____ 2011, by _____.

Witness my hand and official seal.

Notary Public

My Commission Expires: _____

RIGHT-OF-WAY EASEMENT GRANT

THIS RIGHT-OF-WAY EASEMENT GRANT ("Grant) is made this ____th day of _____, 2011, from THE CITY OF NORTHGLENN, whose address is 11701 Community Center Drive, Northglenn, Colorado 80233 ("Grantor" whether one or more), to KERR-MCGEE GATHERING LLC, a Colorado limited liability company, whose address is 1099 18th Street, Suite 1800, Denver, Colorado 80202 ("KMGG"). 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 KMGG, its successors and assigns, a perpetual non-exclusive right-of-way easement to survey, construct, maintain, inspect, operate, repair, alter, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove, at KMGG's election, pipeline(s), meter, launcher and all appurtenances, below or above ground, convenient for the transportation or transmission of oil, gas, petroleum products, water, hydrocarbons and any other substances, whether fluid, solid or gaseous, and any products, derivatives, combinations or mixtures of any of the foregoing, in, on, over, under, or through the lands situated in Weld County, State of Colorado, being described as follows:

TOWNSHIP 1 NORTH, RANGE 68 WEST, 6TH PM
Section 36: S/2

The specific route and course of the right-of-way easement conveyed hereby ("Right-of-Way Easement Lands") are more particularly described on Exhibit "A" attached hereto and made a part hereof. The parties have agreed that the width of the Right-of-Way Easement Lands is fifty feet (50') during construction, and subsequent to construction the width of the Right-of-Way Easement Lands will be Forty feet (40').

After the initial construction of the pipeline(s) KMGG may require, from time to time, temporary additional work space parallel and adjacent to the Right-of-Way Easement Lands to survey, construct, maintain, inspect, operate, repair, alter, replace, modify, change the size of, reconstruct, mark, monitor, abandon or remove the pipeline(s) together with all appurtenances. Grantor agrees to negotiate in good faith with KMGG to allow KMGG the use of this temporary additional work space.

Grantor represents and warrants to KMGG that Grantor is the sole owner in fee simple of the Right-of-Way Easement Lands, subject to the burden of the Right-of-Way Easement and has full right, power and authority to enter into this Grant.

The pipe constructed hereunder shall be placed at a depth of not less than 48 inches below the surface of the ground. Grantor agrees not to increase or decrease the surface elevation on the Right-of-Way Easement Lands without KMGG's prior written permission. KMGG shall repair and/or restore any fence on or adjacent to the Right-of-Way Easement Lands removed or severed by KMGG in the course of the operations provided for in this Grant to the condition such fence was in prior to the removal by KMGG. If necessary to prevent the escape of Grantor's livestock, KMGG shall construct temporary gates or fences in those areas affected by KMGG's operations as provided for in this Grant.

KMGG shall level and restore any lands affected by KMGG's operations that may have excessive settling and sufficiently compact the soil within a reasonable period of time after completion of construction to the condition that existed at the time immediately prior to the placement of KMGG's pipeline, to the extent reasonably practicable.

Grantor agrees not to build, create, construct or permit to be built, created or constructed, any obstruction, building, fence, reservoir, engineering works or other structures or improvements over, under, on or across the Right-of-Way Easement Lands without the prior written consent of KMGG.

KMGG 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 Easement Lands for any and all purposes necessary and incidental to exercising KMGG's rights hereunder.

KMGG shall be obligated to pay for, repair, replace or otherwise compensate Grantor for any damages resulting from KMGG's activities and operations on the Right-of-Way Easement Lands, except for any damage to structures or improvements placed in the Right-of-Way Easement Lands contrary to the terms contained herein; Grantor shall have the right to use and enjoy the Lands, subject to the rights herein granted.

This Grant cannot be modified, except by an instrument in writing signed by Grantor and an authorized representative of KMGG.

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 Grantor and KMGG.

KMGG shall record an original of this Right-of-Way Easement Grant in the records of the County in which the Right-of-Way Easement Lands are located. By recording this Right-of-Way Easement Grant, KMGG shall be deemed to have accepted all of the terms and conditions hereof.

This Grant may be executed in counterparts each of which shall be considered one and the same agreement.

Remainder of Document Intentionally Left Blank

IN WITNESS WHEREOF, Grantor has executed and delivered this Right-of-Way Grant as of the date first above written.

Grantor:

THE CITY OF NORTHGLENN

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by _____, as _____ of The City of Northglenn.

Witness my hand and official Seal.

My Commission Expires: _____

Notary Public: _____
Address: _____

(SEAL)