

**DRAFT**

**MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (MOU) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013 by and between Elbert County, a Colorado county, whose address is 215 Comanche Street, P.O. Box 7, Kiowa, Colorado 80117, and \_\_\_\_\_, a \_\_\_\_\_ corporation (\_\_\_\_\_), whose address is \_\_\_\_\_. Elbert County and \_\_\_\_\_ may be referred to individually as a "Party" or collectively as the "Parties".

**BACKGROUND**

- A. \_\_\_\_\_ is the owner of oil; and gas leasehold and mineral interests within Elbert County boundaries and has the right to develop, subject to the requirements of applicable statutes, regulations, and ordinances, its current and future oil and gas leasehold and mineral interests by drilling wells within Elbert County boundaries.
- B. Elbert County and \_\_\_\_\_ value a balanced approach to oil and gas development that is protective of human health, safety and welfare, as well as the environment, surface waters and aquifers, and wildlife. To that end, in order to achieve such goals in a cooperative manner, Elbert County and \_\_\_\_\_ enter into this MOU to identify Best Management Practices (BMPs) for \_\_\_\_\_'s future operations within Elbert County's boundaries.

NOW THEREFORE, the Parties agree to the following:

1. Effective Date. The effective date of this MOU is \_\_\_\_\_, 2013.
2. Intent to Supplement Colorado Oil and Gas Conservation Commission Rules and Regulations. The Parties recognize that pursuant to the Colorado Oil and Gas Conservation Act, C.R.S. §34-60-101 et seq. (the "Act"), the Colorado Oil and Gas Conservation Commission (the "Commission") regulates the development and production of oil and gas resources in Colorado, and the Act authorizes the Commission to adopt statewide rules and regulations, which the Commission has done. The BMPs



law, decree, regulation or order of any government or governmental body (including any court or tribunal).

9. Authority to Execute MOU. Each Party represents that it has the full right and authority to enter into this MOU.

10. Governing Law. This MOU shall be governed and construed in accordance with the laws of the State of Colorado without reference to its conflicts of laws provisions.

11. Notices. All notices and other correspondence related to this MOU shall be in writing and shall be delivered by: (i) certified mail with return receipt. A Party may change its designated representative for notice purposes at any time by written notice to the other Party. The initial representatives of the Parties are as follows:

Elbert County: Elbert County  
215 Comanche Street  
P.O. Box 7  
Kiowa, Colorado 80117  
Attn: Local Government Designee  
Phone: 303.621.3136  
Fax: 303.621.3165  
Email: \_\_\_\_\_@elbertcounty-co.gov

(Add oil and gas company name and address here)

12. Default. If a Party defaults in the performance under this MOU, the defaulting Party shall have thirty (30) days to cure the default after receipt of written notice of such default from the non-defaulting Party, provided the defaulting Party shall be entitled to a longer cure period if the default cannot reasonably be cured within thirty (30) day period and diligently pursues its completion. If the defaulting Party fails to cure the default within the applicable cure period, then the non-defaulting Party shall have the right to immediately terminate this MOU upon written notice to the defaulting

Party. If the MOU is terminated, the Special Use Permit issued for the defaulting oil and/or gas facility, shall be immediately revoked.

13. Specific Performance. If a Party defaults in the performance under this MOU, the non-defaulting Party may file the necessary documentation with the District Court to compel performance of the terms and conditions of this MOU.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by a duly authorized representative on the day and year first above written.

ELBERT COUNTY:

The Board of County Commissioners

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

By: \_\_\_\_\_  
Co-Chair

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

Date: \_\_\_\_\_

Oil and Gas Company:

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

Name

Title: \_\_\_\_\_

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## ADDENDUM "A"

### OIL AND GAS PRODUCTION BEST MANAGEMENT PRACTICES FOR FACILITIES WITHIN ELBERT COUNTY BOUNDARIES

Pursuant to the terms of this MOU, \_\_\_\_\_ shall include the Best Management Practices listed below on all *Forms 2, Application for Permit to Drill, and Forms 2A, Oil and Gas Location Assessment (for new well sites only)*, submitted to the Commission for new wells \_\_\_\_\_ drills after the Effective Date within Elbert County boundaries.

1. There shall be a minimum of 1,320 feet between the wellhead and any residential structure, domestic well or platted building envelope. A setback of at least 200 feet shall be maintained between the wellhead and the closest property line. The entire pad site with the oil and gas facility shall be located a minimum of 1,000 feet from any water body or the centerline of creeks. Chemicals, liquids, or re-fueling areas shall not be placed within 1,000 feet of wetlands or riparian areas.
2. Prior to commencement of any new drilling or completion operations, \_\_\_\_\_ shall provide notification to landowners within one (1) mile of the well site or ancillary facility not located on the drilling pad. Should the one (1) mile notification area include any lot within a platted subdivision; the lot owners within the entire subdivision shall be notified.
3. Prior to commencement of any new drilling or completion operations, \_\_\_\_\_ shall provide Elbert County Community & Development Services Office the following for the well site information, which \_\_\_\_\_ may revise from time to time during operations:
  - (a.) a summary of planned operations, a map of haul routes and access points approved by Elbert County Public Works Department, and operational timelines, for posting to the Elbert County oil and gas information website;
  - (b.) a site plan which addresses site preparation, mobilization and demobilization;
  - (c.) a plan for interim reclamation and re-vegetation of the site and final reclamation of the site;

- (d.) a plan for noise and light mitigation when a drilling operation is within 1,320' of a residence, school, business or place of worship;
  - (e.) a traffic management plan and dust mitigation plan; and
  - (f.) any updates of this information if plans change during operations.
4. Utilize steel-rim berms around tanks and separators instead of sand or soil berms.
  5. On-site containment and disposal of water associated with oil and/or gas facilities shall be in accordance with applicable Federal, State and County requirements and all other provisions of this Section. No liquids may be disposed of on site or on roadways. Only closed-loop drilling systems shall be permitted in Elbert County for drilling and completion operations rather than open earthen pits. There shall be a "no spill, no liquids on the ground" policy for all facilities. The Applicant shall incorporate on-site treatment of, and adequate on-site storage capacity for, produced and back-flow waters to reduce the volume of water used in the drilling process and to reduce truck volume on County roads. Except during drilling and completion, operators shall use reasonable efforts to transport produced water by pipeline, to a central treatment location site or transport the produced water to a Colorado Department of Public Health and Environment (CDPHE) approved facility for disposal. The final disposition of produced water from any oil and/or gas operation shall be by the most environmentally beneficial method, based upon its relevant characteristics. The disposal method will be determined in consultation with the COGCC and the CDPHE, in accordance with relevant regulatory agency requirements and industry best management practices. Produced and back-flow liquids shall be removed from the County unless it is taken to an integrated recycling facility whose construction is approved pursuant to the requirement set forth in Elbert County Zoning Regulations. Disposal wells are permitted only as a Major Oil and/or Gas Facility, if included in an approved integrated recycling facility. No surface application of backflow and produced water shall be allowed on the ground or on roadways.
  6. Utilize a high-low pressure vessel (HLP) and vapor recovery unit (VRU) or install oxidizer units for new wells drilled.
  7. Prior to commencement of any drilling operations, the Operator will contact, by certified mail, all surrounding property owners with active domestic wells, irrigation or livestock wells, or springs that fall within one (1) mile radius of the

well head; and ask permission to conduct water sampling and analysis pre-drilling, post drilling, post completion, and post production every three (3) years for a period of fifteen (15) years. The results of the water tests shall be sent to C&DS and the water well owner. Should the owner of the well desire to keep the results of the well test private, the owner shall submit a signed statement to C&DS indicating that the well owner wants to keep the test results private. Should a water well owner refuse to have their well tested, the Applicant shall submit a signed statement to C&DS indicating that the owner (provide owner's name and address) has refused water testing.

8. The Operator will make every effort to locate abandoned oil/gas wells within a one (1) mile radius of the well pad. "Every effort" includes contacting all adjacent property owners to identify abandoned wells not previously identified by the Commission. Any abandoned oil/gas well within this area must have their cement casings tested for mechanical and structural integrity and a copy of the findings provided to the County Engineer for review.
9. \_\_\_\_\_'s *Hydraulic Fracturing Responsible Products Program*. \_\_\_\_\_ has developed and is implementing a company-wide *Responsible Products Program* to manage the fluid products used in its hydraulic fracturing operations. This *Responsible Products Program* helps \_\_\_\_\_ evaluate the hydraulic fracturing fluid products it uses in its operations for safety, effectiveness and potential environmental impacts. As part of this program, \_\_\_\_\_ has informed all of its hydraulic fracturing fluid products suppliers that any product containing diesel, Butoxyethanol (2-BE) or benzene cannot be used in hydraulic fracturing at \_\_\_\_\_ operations within Elbert County's boundaries. \_\_\_\_\_ will continue to conduct its hydraulic fracturing operations within the Elbert County boundaries in accordance with its *Responsible Products Program*. (Note: replace *Responsible Products Program* with the appropriate terminology used by the subject oil and gas company.)
10. Water Supply. In an effort to reduce truck traffic, Elbert County and \_\_\_\_\_ will have discussions to identify a water resource close to the well site locations to be utilized by \_\_\_\_\_ and its suppliers, which may include water from various municipalities, when determined feasible by \_\_\_\_\_.