

DRAFT

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into this ____ day of _____, 2012 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 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 _____, 2012.
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

identified in this MOU are intended to supplement and are in addition to Commission rules and regulations.

3. _____'s Best Management Practices within Elbert County boundaries. _____ shall include the BMPs listed in Addendum "A" 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 well sites only) submitted to the Commission for new wells _____ drills after the Effective Date within Elbert County boundaries. For purposes of this MOU, Elbert County's boundary shall mean the legal boundary limits of Elbert County.

4. _____'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, 2-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.)

5. 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 _____.

6. Elbert County Regulatory Approvals. Elbert County will endeavor to process any and all permits, licenses, applications and other approval requests properly submitted by _____ within thirty (30) days or the time period required by applicable law, code, rule, or regulation, whichever is shorter, including those filings for which the corresponding Form 2, Application for Permit to Drill and/or Form 2A, Oil and Gas Location Assessment is pending approval with the Commission. In all cases, Elbert County shall process applications within the time period required by applicable law, code, rule or regulations. In addition, Elbert County shall not include any conditions of

approval, best management practices or similar conditions or requirements on any applications submitted by _____ to Elbert County related to operations within Elbert County's boundary limits, including Site Plan applications and Use by Special Review, provided _____ has included the BMPs listed in Addendum "A" on the corresponding Form 2, Application for Permit to Drill and/or Form 2A, Oil and Gas Location Assessment.

7. Applicability. This MOU shall apply to wells which _____ drills after the Effective Date within Elbert County's boundaries. This MOU shall not apply to any wells or operations: (i) not within Elbert County's boundaries, (ii) in which _____ may have an interest but for which _____ is not the operator, or (iii) drilled by _____ prior to the Effective Date or during any period this MOU is suspended. Further, this MOU shall not apply to any successor owners/operators of any wells initially drilled and operated by _____, nor shall this MOU be binding upon _____ successors or assigns.

8. Term. This MOU is effective upon the Effective Date and shall remain in effect for ten (10) years from the Effective Date, at which time this MOU shall terminate. If, after the Effective Date, Elbert County passes, adopts or imposes a moratorium related to oil and gas operations or any rules or regulations having the effect of a moratorium or which would restrict or prevent _____ from receiving approval of applications in accordance with Section 6 of this MOU, then the applicability of this MOU shall be suspended until the expiration or termination of such moratorium, rules or regulations. If this MOU is suspended for more than thirty (30) days, then _____ shall have the right to immediately terminate this MOU upon written notice to Elbert County. Portions of this MOU directly affected shall immediately terminate if (i) the Commission implements any rules, regulations, ordinances or best management practices guidelines regarding oil and gas development specifically in Elbert County's boundaries or in an area that includes Elbert County boundaries which provide for higher standards than the BMPs or (ii) Elbert County and the Commission enter into any agreements binding on _____ regarding oil and gas development specifically within Elbert County's boundaries. Those portions of this MOU not directly affected by such Commission actions or agreements shall remain in effect. Notwithstanding the foregoing, the terms of Section 6 of this MOU shall not terminate and shall continue to apply and remain in effect even if directly affected by such Commission actions or agreements.

9. No Waiver of Rights. _____ does not waive the rights it has pursuant to its current and future oil and gas interest to explore for, drill and produce

the oil and gas underlying Elbert County's boundaries. Except as set forth in this MOU, Elbert County does not waive the rights it has pursuant to the laws of the State of Colorado or Elbert County rules and regulations.

10. Force Majeure. Neither Party will be liable for any delay or failure in performing under this MOU in the event and to the extent that the delay or failure arises out of causes beyond a Party's reasonable control, including, without limitation, war, civil commotion, act of God, strike or stoppage (whether partial or total) of labor, or any law, decree, regulation or order of any government or governmental body (including any court or tribunal).

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

12. 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.

13. No Third Party Beneficiaries. Except for the rights of enforcement by the Commission with respect to the BMPs, this MOU is not intended to, and does not create any right, benefit, responsibility or obligation that may be enforced by any non-party. Additionally, nothing in this MOU shall entitle any third party to any claims, rights or remedies of any kind.

14. 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, (ii) hand delivery with signature or delivery receipt provided by a third party courier service (such as FedEx, UPS, etc.), (iii) fax transmission if verification of receipt is obtained, or (iv) email with return receipt, to the designated representative of the Party as indicated below. 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: Planning Director

Phone: 303.621.3136

Fax: 303.621.3165

Email: _____@elbertcounty-co.gov

(Add oil and gas company name and address here)

15. 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.

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: _____

Chairman

By: _____

Co-Chairman

By: _____

Commissioner

Date: _____

Oil and Gas Company:

By: _____

Name

Title: _____

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(This space intentionally left blank.)

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 planned 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 the normal high-water mark of any water body. 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.
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. Utilize closed-loop systems 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.
 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 terminus of the horizontal well bore, and the area defined by the tangents of the radiuses, (as illustrated below) 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.

