

FIRST AMENDMENT TO SURFACE USE AGREEMENT

This **FIRST AMENDMENT TO SURFACE USE AGREEMENT** ("Amendment") is made and entered into this 30th day of July, 2013, by and between **K.P. KAUFFMAN COMPANY, INC.** and/or its assignee ("KPK"), a California corporation with an address of 1675 Broadway, Suite 2800, Denver, CO 80202, and **GREELEY ROTHE, LLC** ("Surface Owner"), with an address 7100 East Belleview Avenue, Suite 350, Greenwood Village, CO 80111. KPK and Surface Owner are collectively referred to herein as the "Parties."

RECITALS

A. Surface Owner is the owner of the surface estate in property located in Weld County, Colorado, more particularly described below and hereinafter called the "Property", and has the right to use its surface estate to the fullest extent possible with due regard to the owners and lessees of the mineral estate.

Township 5 North, Range 67 West, 6th P.M.
Section 1: a portion of the SE/4

B. KPK is the assignee of certain oil and gas leasehold rights covering portions of the Property and as such, KPK has the right to explore for, develop, drill for and produce certain oil, gas and other hydrocarbons thereon, with due regard for the owner of the surface estate.

C. The Parties entered into that certain Surface Use Agreement dated October 26, 2012, a Memorandum of which was recorded October 31, 2012, at reception number 3885360 in the Office of the Clerk and Recorder of Weld County, Colorado ("SUA"), which provides for the compatible development of the surface estate and the oil and gas leasehold estate and defines specific names, locations and setbacks for existing and future oil and gas wells and production facilities.

D. The purpose of this Amendment is to provide KPK with an increased temporary horizontal oil and gas operations area and permanent horizontal oil and gas operations area for future horizontal drilling operations in a manner compatible with the development of the surface estate.

NOW, THEREFORE, in consideration of the covenants and mutual promises set forth in this Amendment and the SUA, including the recitals, the Parties agree as follows:

1. Term Used within the SUA. A term used in this Amendment, but not otherwise defined, shall have the same meaning as the term is used in the SUA.

2. Future Horizontal Oil and Gas Operations Area. The Parties agree and acknowledge that, as of the date of this Amendment, KPK has the right to drill one or more future horizontal well(s) on the oil and gas operations area depicted on **Exhibit A** hereto. The Parties agree that the area defined as the "Temporary Horizontal OGOA" on **Exhibit A** hereto shall be the location of operations relating to the preparation, drilling and completion of horizontal wells and for the temporary location of production facilities for horizontal wells. Except for portions of flowlines and pipeline easements, KPK may not locate wells or permanent production facilities within the Temporary Horizontal OGOA without the permission and consent of Surface Owner, but may use the Temporary Horizontal OGOA only for temporary uses related to the drilling, completion and maintenance (including refracturing operations) of horizontal wells and the temporary location of production facilities. The Parties agree that upon KPK's completion of all drilling and completion operations on all permitted horizontal wells subject to this Amendment, the Temporary Horizontal OGOA shall terminate and revert to a Permanent OGOA, as defined herein and depicted on **Exhibit A** hereto. Upon the request of Surface Owner, KPK shall cause to be delivered to Surface Owner a release of KPK's easement rights in the Temporary Horizontal OGOA upon the completion of all drilling and completion operations on all permitted horizontal wells subject to this Amendment. Notwithstanding anything to the contrary contained in this Amendment or the SUA, KPK's use of the Temporary Horizontal OGOA shall automatically terminate on September 1, 2015.

3. Surface Owner's Use of Temporary Horizontal OGOA. Surface Owner may use the Temporary Horizontal OGOA for non-permanent uses such as grazing, agricultural and recreational uses ("Allowed Uses") during those times that the area is not being used by KPK for oil and gas operations and the location of temporary facilities; provided, however, KPK shall in all events and at all times have priority in the use of the Temporary Horizontal OGOA, and Surface Owner shall discontinue all Allowed Uses upon five (5) days notice from KPK for the periods of time described in the notice. KPK shall in no event be liable for damages caused in whole or in part by its oil and gas operations with respect to the Allowed Uses.

4. Permanent Oil and Gas Operations Area. The Parties agree that the area defined as the "Permanent OGOA" on Exhibit A hereto shall be the permanent oil and gas operations area for all future horizontal wells and associated Battery Location after drilling and completion operations are complete. The Parties hereby expressly agree that the Permanent OGOA shall be an area without surface improvements including, but not limited to, permanent structures, surface property lines, fences and roadways, which is defined by a one hundred and fifty foot (150') setback from each existing wellbore and proposed horizontal wellbore and a two hundred foot (200') setback from the center of the Battery Location, as depicted on **Exhibit A** hereto. The Permanent OGOA shall be the location of the future horizontal well or wells and may also be used for the location of tanks, separators, dehydrators, compressors and all other associated oil and gas drilling and production equipment and facilities, flowlines and portions of pipeline

easements and for all related oil and gas operations for the horizontal location(s). The Permanent OGOA is for the exclusive use of KPK for its oil and gas operations and the location of horizontal wells and facilities.

5. Relocation of Existing Tank Battery. The Parties agree that upon Surface Owner's request, KPK shall relocate, at its sole cost and expense, the existing tank battery on the Property to the location depicted on **Exhibit A** hereto.

6. Waiver of Setback Requirements and Surface Owner Consents.

a. Surface Owner and KPK understand and acknowledge that the Colorado Oil and Gas Conservation Commission ("COGCC") has rules and regulations that apply to the distance between a wellhead and building units, high occupancy building units, designated outside activity areas, public roads, production facilities, and surface property lines, among other things, as may be amended in the future. In order to give full effect to the purposes of this Amendment, Surface Owner and KPK hereby waive their right to object to the location of oil and gas wells, facilities, and structures, including without limitation homes, on the basis of setback requirements in the rules and regulations of the COGCC, as those rules and regulations may be amended or superseded from time to time, or of any local jurisdiction. For the operations contemplated by this Amendment, Surface Owner and KPK hereby specifically waive the high density setback distances in the COGCC rules and regulations and any applicable local jurisdiction.

b. Surface Owner and KPK further and similarly waive their right to object to any other state or local setback requirements, notice and consultation requirements, or other requirements or regulations that are or become inconsistent with this Amendment or that would prohibit or interfere with the rights of KPK to explore for and produce the oil and gas in accordance with this Amendment and Owner's rights to develop the Property in accordance with this Agreement. The Parties may cite the waiver in this Paragraph 6 in order to obtain a location exception or variance under COGCC rules or from any other state or local governmental body having jurisdiction over oil and gas operations or the development of the Property. Surface Owner agrees not to object to the use of the surface within the oil and gas operations areas, production facility location and pipeline easements provided in **Exhibit A** so long as the proposed use is consistent with this Amendment and KPK agrees not to object to the use of the surface outside of the OGOA provided in Exhibit A so long as the proposed use is consistent with this Amendment and the SUA.

c. Surface Owner hereby grants consent to locate the proposed horizontal wells greater than 50 feet from an existing well pursuant to COGCC Rule 318A(c). Surface Owner hereby grants consent to locate the proposed horizontal wells outside of the GWA windows as

defined in COGCC Rule 318A(a). Additionally, Surface Owner hereby grants KPK all necessary property line waivers required under COGCC rule 603.

7. Consultation. Surface Owner expressly acknowledges that this Agreement satisfies the obligations and requirements of KPK pursuant to COGCC rules and regulations and Colorado statutes to consult in good faith with Surface Owner regarding existing and proposed oil and gas operations on the Property, location of wellsites, access roads, flowlines, tank batteries, and other associated production equipment. Surface Owner further expressly acknowledges that this Agreement shall be deemed to be specifically applicable to, and to fully satisfy, the obligations of KPK to accommodate the use of the surface of the Property by Surface Owner, existing and future, and Surface Owner waives any statutory and common law claims to the contrary, including, but not limited to, any claims pursuant to C.R.S. 34-60-127.

8. Waiver of Thirty (30) Day Notice. The Parties hereby acknowledge that pursuant to COGCC Rule 305.e.(1), KPK must provide the Surface Owner with "landowner notice" in addition to statutorily required "advance notice" thirty (30) days in advance of commencement of operations with heavy equipment for the drilling of a well. Surface Owner hereby waives the minimum thirty (30) day written advance notice requirement under COGCC Rule 305.e.(1)

9. Replacement of Exhibit A. The Parties agree that Exhibit A attached and made a part hereto replaces and supersedes Exhibit A to the SUA.

10. The Agreement Continues in Effect/Conflicts. Except as specifically amended by this Amendment, the terms and conditions included in the SUA shall continue in full force and effect. In the event of a conflict between this Amendment and the SUA as to the matters covered herein, this Amendment shall control.

11. Binding on Successors and Assigns/Covenant that Runs with the Land. This Amendment and SUA are binding upon the Parties and their successors and assigns and inure to their benefit. This Amendment and the SUA shall be covenants that run with the land provided, however, that upon the plugging and abandonment of all producing horizontal wells drilled under to this Amendment pursuant to applicable COGCC rules and regulations, the Surface Owner may request that KPK file an appropriate release of this Amendment in the Records of the Clerk and Recorder of Weld County, Colorado.

12. Counterpart Execution. This Amendment may be executed in counterparts, each of which shall be deemed an original, and together shall constitute one and the same instrument.

13. Recording. This Amendment shall be recorded with the Clerk and Recorder of Weld County, Colorado.

IN WITNESS WHEREOF, the undersigned parties have caused this Amendment to be executed by a duly authorized representative on the date set forth in the acknowledgment, to be effective on the date first above written.

GREELEY ROTHE, LLC

By  _____

Name: Andy Klein

Title: Manager

K.P. KAUFFMAN COMPANY, INC

By  _____

Name: Kevin P. Kauffman

Title: Chairman and C.E.O.

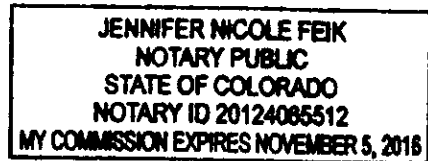
ACKNOWLEDGEMENTS

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 30th day of July, 2013, by Kevin P. Kauffman as President and CEO of K. P. Kauffman Company, Inc.

Witness my hand and official seal.

My commission expires: November 5, 2016



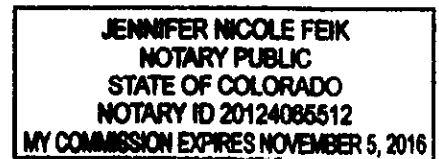
Jennifer Nicole Feik
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 30th day of July, 2013, by Andy Klein as Manager of Greeley Rothe, LLC.

Witness my hand and official seal.

My commission expires: November 5, 2016

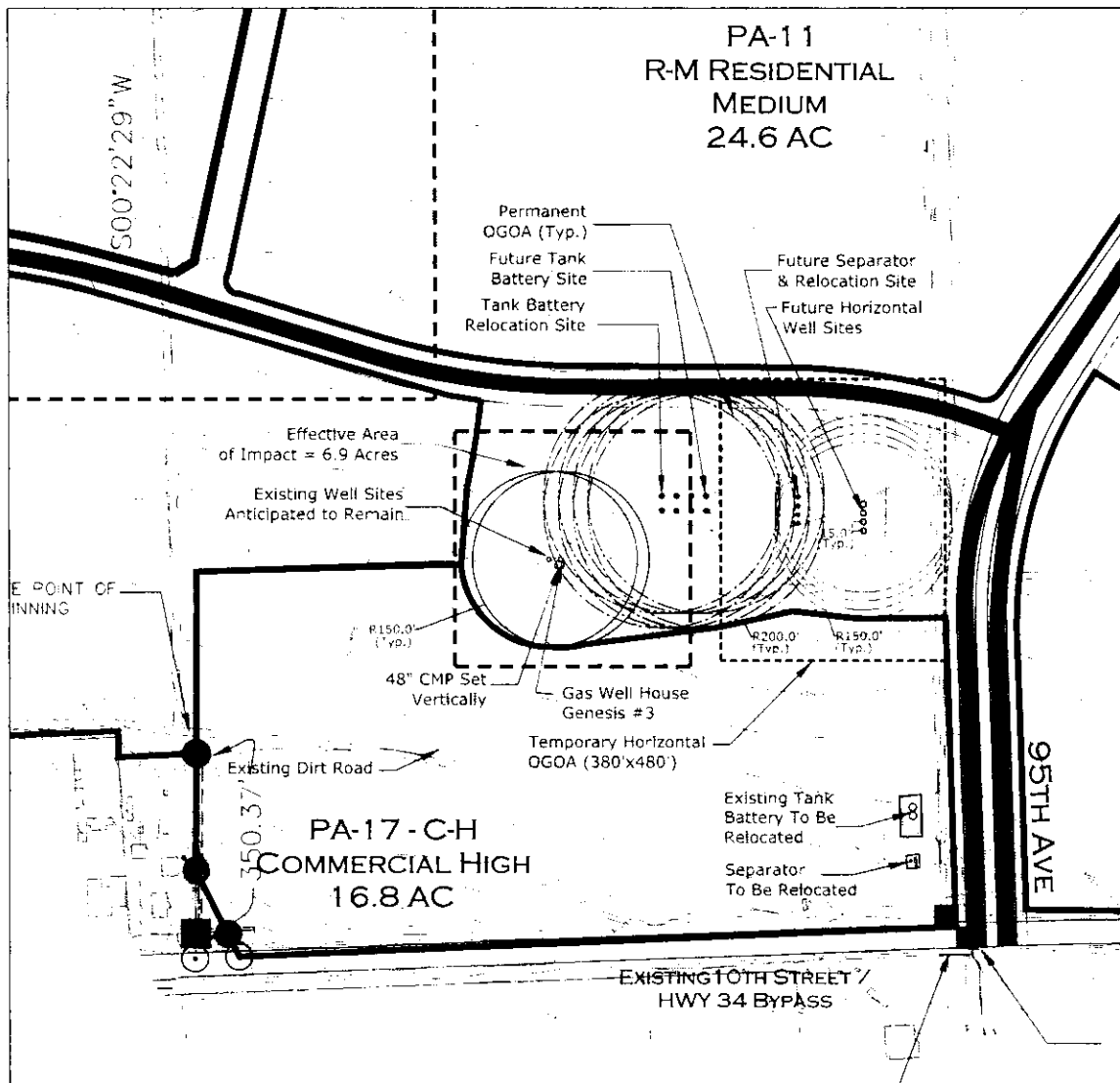


Jennifer Nicole Feik
Notary Public

EXHIBIT A

**To First Amendment to Surface Use Agreement dated July 30th, 2013, by and
between K.P. Kauffman Company, Inc. and Greeley Rothe, LLC.**

See Attached Map Consisting of One (1) Page



Scale: 1"=200'



LEGEND



EFFECTIVE AREA OF
IMPACT = 6.9 ACRES



EXISTING KPK WELL SITE
LOCATIONS, SETBACK AREA &
PERMANENT OGOA



HORIZONTAL DRILL WELL SITE
LOCATIONS, SETBACK AREA &
PERMANENT OGOA



SEPARATOR LOCATIONS,
SETBACK AREA &
PERMANENT OGOA

TANK BATTERY
LOCATIONS, SETBACK AREA
& PERMANENT OGOA

LAKE BLUFF - KPK - PROPOSED DIRECTIONAL DRILLING SCENARIO

GREELEY, CO

July 30, 2013

SOUTHEAST $\frac{1}{4}$, SECTION 1, TOWNSHIP 5.N, RANGE 67W,
COUNTY OF WELD, STATE OF COLORADO