

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

KRP MARCELLUS I, LLC,  
RIVERCREST ROYALTIES HOLDINGS  
II, LLC, DIVERSIFIED ROX MINERALS,  
LLC, BRD ROYALTY HOLDINGS, LLC,  
AMON G. CARTER FOUNDATION, and  
KIMBELL ART FOUNDATION,  
collectively known as KIMBELL GROUP

Civil Action No.: 18-C-215

Presiding: Judge Michael D. Lorensen  
Resolution: Judge Christopher C. Wilkes

Plaintiff

vs.

CHEVRON U.S.A. INC.,  
a Pennsylvania Corporation

Defendant,

TH EXPLORATION, LLC  
a Texas Limited Liability Company

Defendant,

DOE CORPORATION 1-20,

Defendants.

STIPULATION OF CONFIDENTIALITY AND PROTECTIVE ORDER

To expedite the exchange of discovery material, facilitate the prompt resolution of disputes over confidentiality, protect material entitled to confidential treatment, and ensure that protection is afforded only to material so entitled, the parties agree and stipulate as follows:

1. Scope: This Stipulation of Confidentiality and Protective Order ("Protective Order") governs the use and dissemination of documents and information produced in discovery or provided pursuant to subpoena to any person, party, or entity (the "Receiving Party") in the above-captioned action (the "Litigation") when the person, party, or third party producing or providing the documents or information (the "Producing Party") designates them as

"CONFIDENTIAL" under the terms of this Protective Order. It does not apply to (a) documents or information already in the Receiving Party's possession; (b) documents or information that the Receiving Party obtains by means other than discovery served or subpoenas issued in connection with the Litigation; or (c) a Producing Party's use of its own "CONFIDENTIAL" documents or information.

2. Use: A Receiving Party shall use documents and information that a Producing Party designates as "CONFIDENTIAL" under this Protective Order solely for purposes of the Litigation unless otherwise allowed by Court Order as set forth in paragraph 11.

3. "CONFIDENTIAL" Information: In conjunction with and subject to the additional protections from or restrictions regarding disclosure as set forth in paragraphs 18 and 21 of this Protective Order, a Producing Party may designate as "CONFIDENTIAL" any documents or information that, in good faith, it believes to include trade secrets, proprietary information, commercial, financial, budgeting or accounting information, business strategies or decisions, and private information about affiliates, parents, subsidiaries, third parties and employees with whom the parties to this action have had business relationships.

4. Disclosure of "CONFIDENTIAL" Information: Subject to any additional protection from or restrictions regarding disclosure that may be imposed in accordance with the provisions of paragraphs 18 and 21 of this Protective Order and unless otherwise allowed by Court Order as set forth in paragraph 11 of this Protective Order, a Receiving Party may disclose documents and information designated as "CONFIDENTIAL" only to the following persons:

- a. employees or duly authorized agents of the Receiving Party with a need to see such information for the purposes of this Litigation and who agree to be bound by the terms of this order and who first execute a certification attached hereto as Exhibit A.;
- b. counsel representing or advising a named party regarding the prosecution or defense of the Litigation, whether or not as counsel of record, and partners, associates,

paralegals, clerical, and other employees who are working under the direct supervision of such counsel and who are involved in the prosecution or defense of the Litigation;

c. court reporters, interpreters, copy services, graphic support services, document imaging services, and database/coding services retained by counsel, provided these individuals or an appropriate company official with authority to do so first executes a certification attached hereto as Exhibit A;

d. experts or consultants who (i) are retained or consulted by an attorney for a named party in the Litigation, (ii) are involved in the preparation for trial or trial in the Litigation, and (iii) first execute a certification attached hereto as Exhibit A;

e. during depositions or during preparation for depositions or hearings, witnesses who appear reasonably likely to have relevant knowledge or information relating to the document or information designated as "CONFIDENTIAL" or to the specific events, transactions, or discussions referenced, provided that, if such witnesses are not employees of the Producing Party, they first execute the certification attached hereto as Exhibit A and do not retain copies; and

f. the Court, Court personnel, and any Special Masters and/or Mediators appointed by the Court, under seal.

5. Manner of Designation: A Producing Party may designate all or any part of a document, tangible item, discovery response or pleading that is disclosed, produced, or filed as "CONFIDENTIAL" by placing the term "CONFIDENTIAL" on the face of the document and each page so designated. If the document or item cannot be marked in this manner, the Producing Party may provide the Receiving Party with appropriate written notice of the designation. The designation of all or any part of a document, tangible item, discovery response or pleading as "CONFIDENTIAL" shall not waive a party's right to or preclude a party from seeking such further protection from or restrictions regarding disclosure as set forth in paragraphs 18 and 21 of this Protective Order; nor shall such designation preclude any Party's rights to challenge a designation pursuant to paragraph 11 of this Protective Order.

6. Maintenance, Storage, and Copies: The Receiving Party's counsel shall maintain and store documents and information designated as "CONFIDENTIAL" in a secure and safe area and is responsible for employing reasonable measures to control duplication of, access to, and

distribution of copies of documents and information designated as "CONFIDENTIAL." A Receiving Party's files, containers, drawers or other receptacles containing documents or information that a Producing Party has designated as "CONFIDENTIAL" shall be marked on the outside as follows: "THIS FILE CONTAINS MATERIALS SUBJECT TO A PROTECTIVE ORDER IN KRP MARCELLUS I, LLC, ET AL. v. CHEVRON U.S.A. INC., ET AL." Copies of documents or information designated as "CONFIDENTIAL" in whatever form, as well as materials compiled or prepared by the Receiving Party that contain or reflect documents or information designated as "CONFIDENTIAL" (including but not limited to summaries, compilations, notes, and electronic images or databases), are subject to the same restrictions and limitations as originals.

7. Depositions and Hearings: Documents and information previously designated as "CONFIDENTIAL" that are used in or made exhibits to a deposition or hearing shall retain their designated status and need not be redesignated. A Producing Party also may designate testimony and exhibits (or portions thereof) as "CONFIDENTIAL" by advising the court reporter and all parties of such fact either (a) on the record during the deposition or hearing, or (b) in writing within thirty (30) days after the Producing Party's counsel receives a copy of the deposition or hearing transcript. Transcripts of depositions and hearings that contain testimony or exhibits designated as "CONFIDENTIAL" shall bear a legend on their cover page stating "THIS TRANSCRIPT CONTAINS MATERIALS OR INFORMATION SUBJECT TO A PROTECTIVE ORDER IN KRP MARCELLUS I, LLC, ET AL. v. CHEVRON U.S.A. INC., ET AL." Deposition and hearing transcripts and exhibits shall provisionally be deemed "CONFIDENTIAL" for thirty (30) days after the Producing Party's counsel receives a copy of the deposition or hearing transcript. If no already-designated materials are exhibits, no

designations were made on the record during the deposition or hearing, and no Producing Party makes a "CONFIDENTIAL" designation within the thirty (30) day period, the deposition or hearing transcript and exhibits shall be deemed not to contain "CONFIDENTIAL" documents or information. If any portion of a videotaped deposition is designated pursuant to this paragraph, the videocassette or other videotape or digital recording shall be labeled with the appropriate legend.

8. Court Filings: Any documents or pleadings to be filed with the Court that contain "CONFIDENTIAL" documents or information shall be filed under seal in an envelope marked "CONFIDENTIAL – FILED UNDER SEAL PURSUANT TO COURT ORDER" and shall bear the caption of the Litigation and pleading or document title and such other description as will allow the Court to readily identify the documents or information or portions thereof so designated. The party filing such papers shall comply with all requirements for filings made under seal.

9. Notice Of Requests: Any Receiving Party that receives a request or subpoena for the production or disclosure of documents or information that a Producing Party has designated as "CONFIDENTIAL" under the terms of this Protective Order shall, within five (5) business days, give the Producing Party written notice (via both email and U.S. mail) of the request or subpoena and forward a copy of the request or subpoena. Provided that the Producing Party makes a timely motion or other application for relief from the subpoena or other request in the appropriate forum, the Receiving Party shall not produce or disclose the requested information without consent of the Producing Party or until ordered to do so by a court of competent jurisdiction and after all appeals have been exhausted.

10. Closed Depositions: During portions of depositions at which documents or information designated as "CONFIDENTIAL" are used, persons who are not entitled to access to the "CONFIDENTIAL" documents or information under the terms of this Protective Order shall be excluded.

11. Contesting Designations: Nothing in this Protective Order shall be construed to alter or affect the burdens of production, proof, or persuasion, nor shall anything in this Protective Order be construed as a finding that documents or information designated as "CONFIDENTIAL" were properly designated as such. Prior to the commencement of document production in this Litigation, the Producing Party shall meet and confer with the Receiving Party to discuss, in general terms, the categories of documents that shall be designated as "CONFIDENTIAL INFORMATION" and the reason for such designation. Any Receiving Party may object to a Producing Party's designation by specifying the documents or information in issue and the basis for questioning the designation in a written objection. A Receiving Party is not obligated to challenge the propriety of a designation at the time made, and a failure to do so does not preclude any subsequent challenge. If a Receiving Party objects in writing and the Producing Party does not agree to withdraw or alter the designation, the Receiving Party and the Producing Party shall first attempt to resolve the issue informally. If the dispute is not resolved within ten (10) days of service of a written objection, the Receiving Party may file a motion contesting the designation made relating to the documents or information at issue. The burden of establishing that information has been properly designated as "CONFIDENTIAL" is on the party making such designation. This Protective Order does not alter the burden imposed by law on any party seeking to uphold any limitation on the production or dissemination of materials.

Pending Court Order overruling the designation, the information, documents or materials shall continue to be subject to and treated as designated under the terms of this Protective Order.

12. No Waiver: Review of documents or information designated as "CONFIDENTIAL" by persons permitted access under the terms of this Protective Order shall not waive the confidentiality of the documents or information. The inadvertent or unintentional disclosure of or failure to designate "CONFIDENTIAL" documents or information shall not be deemed a waiver, in whole or in part, of the Producing Party's claims of confidentiality. If a Producing Party fails to designate "CONFIDENTIAL" documents or information as such at the time of production or during the thirty (30) day period for review of depositions, the Producing Party may designate such documents under the terms of this Protective Order by (a) notifying each Receiving Party in writing that "CONFIDENTIAL" documents or information were disclosed without having been designated as such within twenty (20) business days of learning of that fact, specifically identifying the "CONFIDENTIAL" documents or information that were disclosed and advising each Receiving Party of the appropriate designations, and (b) providing each Receiving Party with properly redesignated documents or information within thirty (30) business days of having provided such notice. Once the Producing Party provides notice as outlined above, the materials shall be treated in accordance with the designation specified in the Producing Party's notice. Upon receipt of properly redesignated documents, the Receiving Party shall return or certify the destruction of all unmarked or incorrectly designated documents and other materials still under its control to the Producing Party within twenty (20) business days.

Other than as specified in this Protective Order, the taking of or the failure to take any action to enforce the provisions of this Protective Order, or the failure to object to any

designation or any such action or omission, will not constitute a waiver of any right to seek and obtain protection or relief in this action or any other action, such right including, but not limited to, the right to claim that any information is or is not proprietary to any party or entitled to particular protection. The procedure set forth herein does not affect the rights of parties to object to discovery on grounds other than those related to confidential or proprietary information claims, nor does it relieve a party of the necessity of proper response to discovery devices.

13. Unauthorized Disclosure: If a Receiving Party discovers that, whether through inadvertence or otherwise, it has disclosed or provided documents or information designated as "CONFIDENTIAL" to any person or entity not authorized to review it under the terms of this Protective Order, the Receiving Party shall promptly (a) make reasonable, best efforts to seek the return of the documents or information, (b) inform the Producing Party of the disclosure and the relevant circumstances (including the identity of the person or entity to whom disclosure was made), and (c) advise the recipient(s) of the provisions of this Protective Order and request that they agree to its terms in writing by signing the certification attached as Exhibit A. This paragraph does not limit the remedies that the Producing Party may pursue for breach of this Protective Order.

14. Termination of the Litigation: After the final resolution of the Litigation, including any appeals therefrom, counsel for a Receiving Party may, subject to the terms of this Protective Order, retain (a) one copy of deposition transcripts and exhibits, Court transcripts and exhibits, and documents and other materials submitted to the Court that were designated as "CONFIDENTIAL"; and (b) attorney work product based on, containing, or reflecting documents or information designated as "CONFIDENTIAL" under this Protective Order. Except as provided above, within sixty (60) days after the termination of the Litigation, the



Receiving Party's counsel shall either (i) return to the Producing Party's counsel or (ii) provide written certification of the destruction of all documents or information designated as "CONFIDENTIAL/" including any copies. Termination, as used in the prior sentence, includes the conclusion of any appeal(s) and the time for filing any appeal(s).

15. Non-Parties: A person or entity that is not a party in the Litigation shall be entitled to the protections afforded herein by signing a copy of this Protective Order and serving same on all counsel of record.

16. Certifications: Executed copies of the certification attached hereto as Exhibit A shall be maintained by the person or party who caused the certification to be executed. Certifications executed by any individual other than a consultant to a party shall be served upon all other counsel within ten (10) business days of execution.

17. Admissibility and Discoverability: Nothing in this Protective Order shall be construed to be an admission of relevance or to affect, in any way, the admissibility or discoverability of any documents, testimony or other evidence in the Litigation. This Protective Order is without prejudice to the right of any party to bring before the Court at any time the question of whether any particular information is or is not admissible or discoverable.

18. Other Relief: Nothing in this Protective Order shall prevent a party from applying to the Court for relief therefrom, from applying to the Court for modification of this Order, or from seeking additional or different protections for confidential information, and each party reserves the right to seek the foregoing.

19. Trial or Hearings: The parties contemplate that procedures for the treatment and use of "CONFIDENTIAL" documents and information at trial or other hearings before the Court will be addressed in a separate order.

20. Confidential Information of Third Parties: This Protective Order does not address, authorize, or require a Producing Party to disclose confidential information regarding third parties where such disclosure is barred by statute, rule, regulation, common law, or written agreement.

21. Modification of This Protective Order: This Protective Order is without prejudice to the right of any Producing Party to seek relief from the Court, upon good cause shown, from, or to seek to modify, any of the provisions contained herein. This Protective Order is also without prejudice to the right of any Producing Party to assert that certain confidential business information should be protected from disclosure altogether, which assertion shall be made through motion practice should the discharge of meet-and-confer obligations by the parties fail to resolve any dispute regarding the assertion. In the event that any party in this Litigation seeks a court order that in any way seeks to vary the terms of this Protective Order, said party must make such request in the form of a written stipulation, or noticed motion to all parties that must be served and filed in accordance with the local rules. This Protective Order may be amended by way of a proposed Consent Order agreed to by the parties and subject to the Court's approval and entry, or, if the parties do not consent, by way of motion filed and served in accordance with the local court rules, or as otherwise directed by the court.

22. Privileged and Protected Information: This Protective Order does not authorize or require a Producing Party to disclose documents or information protected by or subject to claims of privilege or protection, including but not limited to the attorney-client privilege, work product protection, and joint defense or common interest privilege. If a Producing Party inadvertently or mistakenly produces documents or information subject to a claim of privilege or protection, such production will not waive applicable claims of privilege or protection. After (a) written notice

identifying privileged or protected documents that were inadvertently or mistakenly produced and (b) receipt of a privilege log relating to such documents, the Receiving Party shall (i) return or certify the destruction of all such documents within ten (10) business days and (ii) destroy any work product or portions of any work product containing or reflecting their contents.

23. Binding: This Protective Order is binding on the parties to the Litigation and their attorneys, successor attorneys, personal representatives, executors, administrators, special administrators, legal representatives, assigns, subsidiaries, divisions, employees, and agents.

24. Survival: This Order and the Court's jurisdiction to enforce it shall survive the termination of the Litigation and shall continue in full force and effect thereafter.

The Court directs the Clerk to forward a certified copy of this Order to counsel of record.

IT IS SO ORDERED.

DATED this 6 day of July, 2019

BY THE COURT:

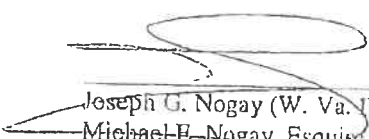


RESPECTFULLY REQUESTED BY:

A Copy Teste:

Joseph M. Rucki, Clerk

By Diana C. [Signature] Deputy




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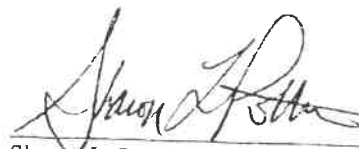
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## CERTIFICATION - EXHIBIT A

I hereby certify that I have read the attached Protective Order in KRP MARCELLUS I. LLC, ET AL. v. CHEVRON U.S.A. INC., ET AL. (Civil Action No.: 18-C-215), pending in the Circuit Court of Marshall County, West Virginia, Business Court Division, dated \_\_\_\_\_ (the "Order"). I agree that I will not reveal "CONFIDENTIAL" information to, or discuss such with, any person who is not entitled to receive "CONFIDENTIAL" information in accordance with the Order, I will use "CONFIDENTIAL" information only for the purposes of facilitating the prosecution or defense of the action and will not use or disclose such information for any business or other purpose unless such use or disclosure is ordered by a court or is authorized by the party designating the material as "CONFIDENTIAL." I will otherwise keep all "CONFIDENTIAL" information confidential in accordance with this Order. I agree that the court referenced above has jurisdiction to enforce the terms of the Order, and I consent to jurisdiction of that court over my person for that purpose. I will otherwise be bound by the strictures of the Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Role in Litigation)

\_\_\_\_\_  
(Address)  
\_\_\_\_\_