

CONFIRMATION OF CONSULTATION (COGCC Rule 306.a.)

WAIVER OF NOTICE OF DRILLING (COGCC Rule 305.b.)

CONFIRMATION OF RECEIPT OF BROCHURE (COGCC Rule 305.c.(6))

CONFIRMATION OF RECEIPT OF POLICY FOR ONSITE INSPECTIONS (COGCC Rule 305)

We, the undersigned and record title owner of that certain property being the SE1/4SE1/4 of Section 34, Township 34 North, Range 9 West, N.M.P.M. La Plata County, Colorado, do hereby affirm and acknowledge the following:

1. The proposed well, known as the Zellitti 34-9 #34-3 Well ("Additional Well"), will be located on the existing well pad associated with the existing Zellitti 34-9 #34-1 Well or as same may be reasonably expanded or modified.
2. Pursuant to the Colorado Oil and Gas Conservation Commission ("COGCC") Rule 306.a., we have been contacted by, and have consulted with, XTO Energy Inc. and/or its contracted representatives and agents regarding the proposed drilling location for the Additional Well.
3. Pursuant to the COGCC Rule 305.c.(6), we have been provided the brochure titled: "Information for Oil and Gas Operators, Surface Owners and Surface Tenants" and have been provided with the "Policy for Onsite Inspections and Onsite Inspection Form".
4. We have been furnished a description of the proposed drilling location, dimensions of the well site, and the location of associated production facilities, pipelines, roads and any other areas to be used for oil and gas operations.
5. We have been allowed to provide comments regarding preferences for the timing of oil and gas operations and preferred locations for wells and associated facilities.
6. We have executed and entered into Surface Use Agreement, dated the 3<sup>rd</sup> day of October, 2008 by and between ourselves, as Surface Owner, and XTO Energy Inc., as Operator, whereby we have agreed to certain terms and conditions pertaining to the use of existing access roads, preparation and use of the existing well pad and the possible expansion of the existing well pad to accommodate the Additional Well, to be located approximately at a surface location 1371 feet from the south line and 1084 feet from the east line of Section 34, Township 34 North, Range 9 West, N.M.P.M.
7. We have been made aware of the COGCC Rule 305.b., and hereby waive the requirement that XTO Energy Inc., as Operator, notify us, as Owner, of its intention to conduct operations for the drilling of the Additional Well thirty (30) days prior to the date of estimated commencement of operations with heavy equipment.

Executed this 3<sup>rd</sup> day of October, 2008

Record Title Owner:

By: Anthony D. Zellitti  
Anthony D. Zellitti, individually and as Joint Tenant

By: Marilyn G. Zellitti  
Marilyn G. Zellitti

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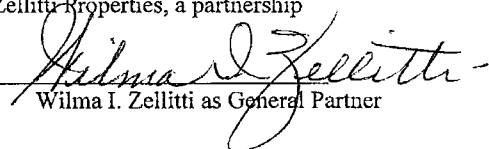
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Executed this 3<sup>rd</sup> day of October, 2008

Record Title Owner:

Zellitti Properties, a partnership

By:

  
Wilma I. Zellitti as General Partner