

## MEMORANDUM OF SURFACE USE AGREEMENT

(Henry #2-3 from the Tiffany B #1 Well Location)

This MEMORANDUM OF SURFACE USE AGREEMENT ("Memorandum") is provided by XTO Energy Inc., a Delaware Corporation, the address of which is 810 Houston Street, Fort Worth, TX 76102-6298 ("XTO or "Operator), and Adobe Investment Co., LLC, a Colorado limited liability company, whose address is P. O. Box 1006, Ignacio, Colorado 81137 ("Surface Owner").

Notice is hereby given that XTO and Surface Owner have entered in a Surface Use Agreement dated the 22 of August, 2010, concerning a proposed gas well known as the Henry 2 #3 (the "Additional Well") to be located on the well pad of an existing gas well known as the Tiffany B #1 (the "Existing Well") or reasonable expansion or modification thereof. Both wells are or will be located on the below described property and will be or have been drilled pursuant to underlying oil and gas lease(s) and applicable permits. Under the Surface Use Agreement, Surface Owner and Operator have agreed to certain specific matters in connection with XTO's right to use the surface estate of the following property:

Lot 3 of Pat-Way Cattle Co., Inc. Boundary Survey - Lot 3, according to the recorded plat thereof filed for record on May 23, 2008, under Reception No. 977387 which is situated in the East ½ of Section 2, Township-32-North, Range-07-West, N.M.P.M., and being further referenced under that certain Warranty Deed recorded May 23, 2008, under Reception No. 977389, all in La Plata County, Colorado (the "Property").

This memorandum constitutes notice to all interested parties of the existence of the Surface Use Agreement. Furthermore, any successor or assign of either XTO or Surface Owner shall be bound by the terms and conditions of the Surface Use Agreement. In the event that any party acquires any rights or interests in the surface estate of the Property, such rights or interests shall be subject to the terms and conditions set forth in the Surface Use Agreement. For more information, contact either XTO or Surface Owner.

Under Colorado Oil and Gas Conservation Commission (the "COGCC") Notice and Consultation Rules 305.e, 305.e(1)(A), 305.e(7), 306.a. and 306.a(3), Surface Owner acknowledges and agrees that Operator has complied with all notice and consultation requirements of COGCC Rules 305 and 306. Surface Owner also waives the right to receive notices under the La Plata County Code including, but not limited to, Section 90-77 of said Code.

### SURFACE OWNER:

Adobe Investment Co., LLC, a Colorado limited liability company

By: Stephanie Ribera

Name: Stephanie Ribera, a/k/a  
Stephanie Eve Ribera

Title: President/Member of Adobe  
Investment Co., LLC

By: Chris Ribera

Name: Chris Ribera, a/k/a  
Chris A. Ribera

Title: Vice President/Member of Adobe  
Investment Co., LLC

### OPERATOR:

XTO Energy Inc., a Delaware corporation

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

Name: Edwin S. Ryan, Jr.

Title: Senior Vice President – Land Administration



ACKNOWLEDGEMENTS

STATE OF COLORADO )  
COUNTY OF LA PLATA ) ss.

This instrument was acknowledged before me this 22<sup>nd</sup> day of AUGUST, 2010 by Stephanie Ribera a/k/a Stephanie Eve Ribera, as President/Member, and Chris Ribera a/k/a Chris A. Ribera, as Vice President/Member, of Adobe Investment Co., LLC, a Colorado limited liability company, on behalf of said company.

WITNESS my hand and official seal.

Mike Simone (SEAL)  
Notary Public  
MAY 11, 2014  
My Commission Expires



My Commission Expires 5-11-14

STATE OF TEXAS )  
COUNTY OF TARRANT ) ss.

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2010 by Edwin S. Ryan, Jr., Senior Vice President – Land Administration of XTO Energy Inc., a Delaware corporation, on behalf of said corporation.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public (SEAL)

\_\_\_\_\_  
My Commission Expires



## POST CARD

WE DO NOT wish to meet with respect to the consultation meeting regarding the location of XTO Energy Inc. Henry #2-3 Well location and associated production facilities at a surface location of 919 feet from the North line and 912 feet from the East line of Section 2, Township 32 North, Range 7 West, N.M.P.M., on our property being Lot 3 of Pat-Way Cattle Co., Inc. Boundary Survey - Lot 3, according to the recorded plat thereof filed for record on May 23, 2008, under Reception No. 977387 which is situated in the East ½ of Section 2, Township-32-North, Range-07-West, N.M.P.M., and being further referenced under that certain Warranty Deed recorded May 23, 2008, under Reception No. 977389, all in La Plata County, Colorado.

We further state that there are no tenants who own or have an interest in the surface estate as noted above.

Adobe Investment Co., LLC, a Colorado limited liability company

Dated: 8/22/10

By: Stephanie Ribera

Name: Stephanie Ribera, a/k/a  
Stephanie Eve Ribera

Title: President/Member of Adobe  
Investment Co., LLC

By: Chris Ribera

Name: Chris Ribera, a/k/a  
Chris A. Ribera

Title: Vice President/Member of Adobe  
Investment Co., LLC

If there is a tenant, please provide the following information:

Name of Tenant: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

WE DO wish to meet on the \_\_\_\_ day of \_\_\_\_, 2010, at \_\_: \_\_.m. with respect to the consultation meeting regarding the location of XTO Energy Inc. Tiffany #2-3 Well and associated production facilities at a surface location of 919 feet from the North line and 912 feet from the East line of Section 2, Township 32 North, Range 7 West, N.M.P.M., on our property being Lot 3 of Pat-Way Cattle Co., Inc. Boundary Survey - Lot 3, according to the recorded plat thereof filed for record on May 23, 2008, under Reception No. 977387 which is situated in the East ½ of Section 2, Township-32-North, Range-07-West, N.M.P.M., and being further referenced under that certain Warranty Deed recorded May 23, 2008, under Reception No. 977389, all in La Plata County, Colorado.

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

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

Name: Stephanie Ribera, a/k/a  
Stephanie Eve Ribera

Title: President/Member of Adobe  
Investment Co., LLC

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

Name: Chris Ribera, a/k/a  
Chris A. Ribera

Title: Vice President/Member of Adobe  
Investment Co., LLC



SURFACE OWNER RESPONSE  
TO COLORADO DEPARTMENT OF WILDLIFE  
CONDITIONS OF APPROVAL

**C. R.S. 34-60-128(3)(b) provides for surface owner consent of certain permit specific conditions of wildlife habitat protection.**

Adobe Investment Co., LLC, a Colorado limited liability company as record title Surface Owner's of Lot 3 of Pat-Way Cattle Co., Inc. Boundary Survey - Lot 3, according to the recorded plat thereof filed for record on May 23, 2008, under Reception No. 977387 which is situated in the East ½ of Section 2, Township-32-North, Range-07-West, N.M.P.M. are aware of the following Colorado Department of Wildlife's recommended Conditions of Approval ("COA") for XTO Energy Inc. Application for Permit to Drill the Henry #2-3 well:

No.

1. All fired vessel and heat transfer stacks, vents, or other openings shall be equipped with screens or other appropriate equipment to prevent entry by wildlife, including migratory birds.

*The above Condition of Approval is currently addressed by existing rule 604.b.(7) and Migratory Bird Policy of the Colorado Oil and Gas Conservation Commission and is not open for discussion by the operator or the surface owner.*

2. Do not place staging, refueling, or chemical storage areas within riparian zones and floodplains.
3. Use wildlife-appropriate fencing at this facility if acceptable to Surface Owner.
4. Use wildlife-appropriate seed mixes at this facility if acceptable to Surface Owner.
5. Gate the access road to this facility and limit public access if acceptable to Surface Owner.

and hereby:

X CONSENT to the implementation of the COA's #1, 2, 4, 5

X DO NOT CONSENT to the implementation of the COA's #3

\_\_\_\_\_ Propose(s) the attached alternative(s) to the \_\_\_\_\_ recommended COA(s)

By: Stephanie Ribera  
Stephanie Ribera, a/k/a  
Stephanie Eve Ribera

Date: 8/22/10

By: Chris Ribera  
Chris Ribera, a/k/a  
Chris A. Ribera

Date: 8/22/10