

## **SURFACE OWNER WAIVER AND CONSENT AGREEMENT**

THIS SURFACE OWNER WAIVER AND CONSENT AGREEMENT ("Agreement"), dated this 13<sup>th</sup> day of March, 2017 ("Effective Date"), is made by and between the undersigned, Dan L. Porter, whose address is 20091 Road 19, Lewis, CO 81327, herein called "Surface Owner", and Kinder Morgan CO<sub>2</sub> Company, L.P., whose address is 1001 Louisiana, Suite 1000, Houston, TX 77002, herein called "Kinder Morgan";

WHEREAS, Surface Owner represents that he owns the surface estate in fee and is in possession of an interest in part or all of the surface estate for the following described lands in Montezuma County, Colorado, said lands herein called "Lands", to wit;

Township 37N, Range 18W, 6th P.M.  
Section: 2  
Montezuma County, Colorado

covering the following named well(s) or facility:

Well Name: YE-6  
Well ID: 313580, API#: 05-083-06594

hereinafter called "Well."

WHEREAS, Surface Owner recognizes that Kinder Morgan is the operator of the Well, and as such, has certain rights and obligations pursuant to Colorado Oil and Gas Conservation Commission ("Commission") Rules, herein called "Commission Rules" and also acknowledges the Commission's Operator Guidance for Rule 1001.c. Reclamation Variance and Waivers.

WHEREAS, Surface Owner and Kinder Morgan desire to forego certain interim reclamation requirements applicable to the Lands so that Surface Owner may utilize the Lands to his benefit, and hereby set forth their agreements with respect to future reclamation operations or uses of Lands.

NOW, THEREFORE, in consideration of ten dollars (\$10.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Surface Owner and Kinder Morgan agree as follows:

1. Surface Owner Waiver of Commission Rule 1003.d. Surface Owner understands and acknowledges that the Commission has rules and regulations that pertain to the proper interim reclamation of drilling pits, land and soil affected by oil and gas drilling operations. Pursuant to Commission Rule 1001.c, Surface Owner hereby waives any and all rights available to them under Rule 1003.d. regarding drilling pit closure, and hereby acknowledges and confirms that Kinder Morgan does not have to

comply with Commission Rule 1003.d. as set forth in Commission Rule 1001.c. Should any final reclamation pursuant to Rule 1004 require closure of the drilling pits subject to this Agreement, Surface Owner hereby waives any such requirements regarding the closure of drilling pits on the Lands. In accordance with this Agreement, Surface Owner shall not oppose Kinder Morgan in any Commission or other governmental proceedings related to Kinder Morgan's operations pursuant to this Agreement. Surface Owner will provide Kinder Morgan or its successors and assigns with any and all written or oral support they may reasonably require to obtain permits from the Commission, local jurisdiction, or other governmental agency.

2. Kinder Morgan Obligations. Pursuant to this Agreement and in lieu of the reclamation requirements contained in Rule 1003.d., Kinder Morgan and Surface Owner agree to the following, to the satisfaction of Kinder Morgan:

- a. Kinder Morgan has provided all sampling results from said Lands to the landowner.
- b. The liner of all pits has been shredded, mixed with soil and buried.
- c. Surface Owner will conduct weed control activities on lands located both off the Well and Facility location in compliance with 1003.f.

3. Acknowledgement and Compliance with Commission Operator Guidance for Rule 1001.c. Reclamation Variances and Waivers. Surface Owner and Kinder Morgan have conducted the appropriate consultation required by Rule 306.f and have also discussed and agreed upon the following items set forth in the Commission Operator Guidance for Rule 1001.c. Reclamation Variances and Waivers, Section I, Subparts 1, 2, 3 and 4:

- a. The specific portion of the oil and gas location for which the Surface Owner is waiving the operator's obligation to perform interim reclamation is described below and depicted on Figure 1 of Exhibit A attached and made a part hereto.
- b. Surface Owner hereby waives the Operator's obligation to perform interim reclamation required by Rule 1003.d. for the specified portions of the Lands described herein to avoid disturbance of re-seeded ground.
- c. The Surface Owner hereby acknowledges that and has requested that the current condition of the Lands, access road, Well, and soils subject to this waiver is satisfactory to the Surface Owner as of the Effective Date of this Agreement. Surface Owner specifically acknowledges that

the drilling pit liner for the Well shall remain buried on the Lands and specifically waives the requirements of Rule 1003.d. regarding (1) the backfilling of the drilling pit, and (2) the timing for closure and reclamation.

- d. Surface Owner acknowledges that the soils do not meet the concentration levels of the current Commission Table 910-1 and Kinder Morgan will continue to monitor and evaluate in-place remediation options over time (hereinafter "Work"). Surface Owner hereby grants Kinder Morgan, its agents, employees, contractors, and subcontractors the right to enter the Property for the sole purpose of carrying out the Work, without rent, fee or other form of charge. Kinder Morgan shall perform all Work in compliance with all applicable federal, state and local rules and regulations.
  - e. The Surface Owner hereby acknowledges that all active portions of the oil and gas location on the Lands and all oil and gas operations on the Lands remain under the jurisdiction of the Colorado Oil and Gas Conservation Commission.
  - f. The Surface Owner hereby acknowledges that the Surface Owner may not impede ingress to or egress from the active oil and gas location on the Lands or interfere with the safe conduct of oil and gas operations on the location.
4. Mutual Indemnity/Release. Surface Owner hereby releases and agrees to hold harmless Kinder Morgan from any and all liability and further payment for damages on the Lands which arise from, out of, or in connection with Kinder Morgan's operations on Lands as they relate to Surface Owner's waiver of Commission Rule 1003.d., but only as to those operations which are described in and permitted by this Agreement. Kinder Morgan agrees to indemnify and hold harmless Surface Owner from any and all claims, damages and causes of action arising out of and caused by Kinder Morgan's operations on Lands that may be asserted by any of Kinder Morgan's agents, employees, subcontractors, contractors or persons entering upon the premises at the request of Kinder Morgan for purposes of complying with this Agreement.
  5. Notice for Additional Operations. In addition to the applicable provisions and requirements set forth in this Agreement, Kinder Morgan will comply with applicable Commission Rules and Regulations if any additional operations are conducted on the Well.
  6. Successors and Assigns. When Kinder Morgan is used in this Agreement, it shall also mean the successors and assigns of Kinder Morgan, as well as its employees and officers, agents, affiliates, contractors, subcontractors and/or purchasers. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of Surface Owner and Kinder Morgan and may be executed in counterparts.

7. Confidentiality. Surface Owner shall not disclose such information about this Agreement without the advance written consent from Kinder Morgan. Kinder Morgan may need to provide this Agreement to regulatory agencies, evidencing the existence of this Agreement, but in all other respects its terms and conditions shall be held confidential by the parties.

AGREED TO AND ACCEPTED AS OF THE DATE FIRST WRITTEN ABOVE.

**SURFACE OWNER:**

By:   
Dan L. Porter

**KINDER MORGAN CO2 COMPANY, L.P.**

By:   
Barry Swift, Manager/CO<sub>2</sub>

**EXHIBIT A**

To that certain Surface Owner Waiver and Consent Agreement dated

3/27/17

by and between Dan L. Porter and Kinder  
Morgan CO<sub>2</sub> Company, L.P.