

## MEMORANDUM OF SURFACE USE AGREEMENT

(R&G #26-3 from the R&G #26-2 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 Hocker Family, LLC, a Colorado Limited Liability Company, whose address is P.O. Box 892, Ignacio, Colorado 81137 ("Surface Owner").

Notice is hereby given that XTO and Surface Owner have entered in a Surface Use Agreement dated the MARCH 9<sup>TH</sup> of \_\_\_\_\_, 2011, concerning a proposed gas well known as the R&G #26-3 (the "Additional Well") to be located on the well pad of an existing gas well known as the R&G #26-2 (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:

The N1/2SE1/4 of Section 26, Township 33 North, Range 7 West, N.M.P.M., being more particularly described under that certain Warranty Deed dated January 5, 2009, recorded January 30, 2009, Reception No. 990063, La Plata County, Colorado

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. The 305.e(7) Waiver being only applicable to planned drilling and completion activities under the aforementioned Surface Use Agreement. XTO in compliance with COGCC Rules shall provide Surface Owner Notice as required for all subsequent activities. 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:

Hocker Family, LLC, a Colorado Limited Liability Company

By: Evelyn L. Payne

Date: MARCH 9<sup>TH</sup>, 2011

Name: Evelyn Payne, a/k/a Evelyn L. Payne

Title: MEMBER

By: Glenda E. Hocker

Date: MARCH 9<sup>TH</sup>, 2011

Name: Glenda E. Hocker

Title: MANAGER & MEMBER

OPERATOR:

XTO Energy Inc., a Delaware corporation

By: Edwin S. Ryan, Jr.

Name: Edwin S. Ryan, Jr. *JSW MSN*

Title: Senior Vice President – Land Administration

**ACKNOWLEDGEMENTS**

STATE OF COLORADO )  
COUNTY OF LA PLATA ) ss.

This instrument was acknowledged before me this 9<sup>th</sup> day of MARCH, 2011 by Evelyn Payne a/k/a Evelyn L. Payne as MEMBER and Glenda E. Hocker as MANAGER AND MEMBER of the Hocker Family, LLC, a Colorado Limited Liability Company, on behalf of said company.

WITNESS my hand and official seal.

Mike Simone  
Notary Public  
MAY 11, 2014  
My Commission Expires

(SEAL)



My Commission Expires 5-11-14

STATE OF TEXAS )  
COUNTY OF TARRANT ) ss.

This instrument was acknowledged before me on the 21<sup>st</sup> day of MARCH, 2011 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.  
Dedra L. Nunez  
Notary Public  
Jan. 28, 2012  
My Commission Expires

(SEAL)

