

AFFIDAVIT OF PUBLICATION

Ad No. 60029

STATE OF NEW MEXICO
County of San Juan:

BOB WALLER, being duly sworn says: That he is the CLASSIFIED MANAGER of THE DAILY TIMES, a daily newspaper of general circulation published in English at Farmington, said county and state, and that the hereto attached Legal Notice was published in a regular and entire issue of the said DAILY TIMES, a daily newspaper duly qualified for the purpose within the meaning of Chapter 167 of the 1937 Session Laws of the State of New Mexico for publication and appeared in the Internet at The Daily Times web site on the following day(s):

Wednesday April 16, 2008

And the cost of the publication is \$163.18

ON 4/22/08 BOB WALLER appeared before me, whom I know personally to be the person who signed the above document.

Christine Sellers
My Commission expires 3/1/05, 20 //

COPY OF PUBLICATION

NOTICE OF PUBLICATION

STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION SANTA FE, NEW MEXICO

The State of New Mexico through its Oil Conservation Division hereby gives notice pursuant to law and the Rules and Regulations of the Division of the following public hearing to be held at 8:15 A.M. on May 15, 2008, in the Oil Conservation Division Hearing Room at 1220 South St. Francis, Santa Fe, New Mexico, before an examiner duly appointed for the hearing. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact: Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 by May 8, 2008. Public documents including the agenda and minutes, can be provided in various accessible forms. Please contact Florene Davidson if a summary or other type of accessible form is needed.

STATE OF NEW MEXICO TO:

All named parties and persons having any right, title, interest or claim in the following cases and notice to the public including Douglas Kensaton aka Douglas L. Kenaston aka Douglas A. Kenaston

(NOTE: All land descriptions herein refer to the New Mexico Principal Meridian whether or not so stated.)

CASE 14118: Application of XTO Energy, Inc. for compulsory pooling, San Juan County, New Mexico. Applicant seeks an order pooling all mineral interests to the Pictured Cliffs formation and the Basin Fruitland Coal-Gas Pool underlying both the NE/4 and the N/2 of Section 28, T29N, R11W, NMPM, San Juan County, New Mexico, forming a standard 320-acre gas spacing and proration unit for any production from the Basin Fruitland Coal Gas Pool and forming a standard 160-acre gas spacing and proration unit for any production from the Pictured Cliffs formation, including but not limited to the Fulcher Kutz Pictured Cliffs Gas Pool. These units are to be dedicated its Masden Selby Well No. 2R (API# 30-045-pending) to be drilled at a standard location in Unit G of this section for downhole commingled production from the Basin Fruitland Coal Gas Pool and the Fulcher Kutz Pictured Cliffs Gas Pool. Also to be considered will be the costs of drilling and completion this well and the allocation of the costs thereof as well as actual operating costs and charges for supervision, designation of the applicant as the operator of the well and a 200% charge for risk involved in this well. This unit is located approximately 1 mile East-South east from Bloomfield, New Mexico.

Given under the Seal of the State of New Mexico Oil Conservation Division at Santa Fe, New Mexico.

STATE OF NEW MEXICO OIL CONSERVATION DIVISION

Mark E. Fesmire, P.E., Director

Legal No. 60029 published in The Daily Times, Farmington, New Mexico on Wednesday April 16, 2008

Before the Oil Conservation Division
Case 14118
Hearing May 15, 2008
XTO Energy, Inc.
Exhibit No. 5