

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

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

APPLICATION OF XTO ENERGY, INC. CASE NO. 15718
FOR A NONSTANDARD SPACING AND
PRORATION UNIT AND COMPULSORY
POOLING, EDDY COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

June 8, 2017

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
MICHAEL McMILLAN, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, William V. Jones,
Chief Examiner, Michael McMillan, Technical Examiner,
and David K. Brooks, Legal Examiner, on Thursday,
June 8, 2017, at the New Mexico Energy, Minerals and
Natural Resources Department, Wendell Chino Building,
1220 South St. Francis Drive, Porter Hall, Room 102,
Santa Fe, New Mexico.

REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
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1 APPEARANCES

2 FOR APPLICANT XTO ENERGY, INC.:

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7 INDEX

8 PAGE

9	Case Number 15718 Called	3
10	XTO Energy, Inc.'s Case-in-Chief:	
11	Witnesses:	
12	Angie Repka:	
13	Direct Examination by Ms. Kessler	3
14	Cross-Examination by Examiner Jones	10
15	Cross-Examination by Examiner Brooks	12
16	Recross Examination by Examiner Jones	15
17	Recross Examination by Examiner Brooks	15
18	Shane Finegan:	
19	Direct Examination by Ms. Kessler	16
20	Cross-Examination by Examiner Jones	20
21	Proceedings Conclude	22
22	Certificate of Court Reporter	23

22 EXHIBITS OFFERED AND ADMITTED

23	XTO Energy, Inc. Exhibit Numbers 1 through 6	10
24	XTO Energy, Inc. Exhibit Numbers 7 through 9	19

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1 (1:36 p.m.)

2 EXAMINER JONES: Back on the record, and
3 call Case Number 15718, application of XTO Energy,
4 Incorporated for a nonstandard spacing and proration
5 unit and compulsory pooling, Eddy County, New Mexico.

6 Call for appearances.

7 MS. KESSLER: Jordan Kessler, from the
8 Santa Fe office of Holland & Hart, on behalf of the
9 Applicant.

10 EXAMINER JONES: Any other appearances?

11 MS. KESSLER: Two witnesses.

12 (Ms. Repka and Mr. Finegan sworn.)

13 ANGIE REPKA,
14 after having been first duly sworn under oath, was
15 questioned and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. KESSLER:

18 Q. Can you please state your name for the record
19 and tell the Examiners who you're employed with?

20 A. Angie Repka, and I'm a landman for XTO Energy.

21 Q. Have you previously testified before the
22 Division?

23 A. Yes.

24 Q. Were your credentials as a petroleum landman
25 accepted and made a matter of record?

1 A. Yes.

2 Q. Are you familiar with the application that's
3 been filed in this case?

4 A. Yes, I am.

5 Q. And are you familiar with the status of the
6 lands of the subject area?

7 A. Yes, I am.

8 MS. KESSLER: Mr. Examiners, I would tender
9 Ms. Repka as an expert in petroleum land matters.

10 EXAMINER JONES: So qualified.

11 Q. (BY MS. KESSLER) Ms. Repka, would you explain
12 what XTO seeks in this hearing?

13 A. XTO seeks to form a nonstandard 320-acre
14 spacing unit comprised of the east half of the east half
15 of Sections 8 and 17, in Township 25 South, 29 East.

16 Q. Are you also seeking to pool the Bone Spring
17 Formation in the spacing units?

18 A. Yes.

19 Q. Is Exhibit 1 a filed C-102 for the Corral
20 Canyon Federal Com #16H well?

21 A. Yes, it is.

22 Q. And this reflects the 320-acre spacing unit
23 that you previously described, correct?

24 A. Correct.

25 Q. What is the API number for this well?

1 A. 30-015-42928.

2 Q. And has the Division identified a pool and pool
3 code?

4 A. Yes. It's the Willow Lake; Bone Spring,
5 Southeast, Pool Code Number 96217.

6 Q. Is this pool governed by Division statewide oil
7 rules?

8 A. Yes, it is.

9 Q. So 40-acre spacing and 330-foot setbacks,
10 correct?

11 A. Correct.

12 Q. Will the completed interval for this well
13 comply with Division statewide rules?

14 A. Yes, it will.

15 Q. And are these portions of Sections 8 and 17
16 comprised of federal land?

17 A. Yes, they are.

18 Q. Are there any depth severances in this acreage?

19 A. No.

20 Q. If you turn to Exhibit 2, is this an ownership
21 tabulation identifying XTO's interest in the proposed
22 nonstandard spacing unit?

23 A. Yes, it is.

24 Q. And this also identifies the total interest,
25 correct?

1 A. Correct.

2 Q. It looks like XTO is seeking to pool a
3 relatively small amount of interest; is that correct?

4 A. Correct. It's just about 2.6 percent.

5 Q. And highlighted are the uncommitted interest
6 owners in yellow?

7 A. Yes.

8 Q. What is Exhibit 3?

9 A. Exhibit 3 is the C-102s for the -- there are
10 four Slider Federal wells that are operated by Devon.

11 Q. Do these two C-102s show that the Slider wells
12 are committed to the same spacing unit -- overlapping
13 spacing unit as the proposed well?

14 A. Yes, they are.

15 Q. And they're in the same pool, correct?

16 A. Correct.

17 Q. Do you know the history of these Devon wells?

18 A. I do not.

19 Q. We know, though, from the C-102s that they are
20 oil wells committed to 320 acres; is that correct?

21 A. That's correct.

22 Q. Did Devon trade their interest to XTO in the
23 spacing unit?

24 A. Yes, they did.

25 Q. But did they retain ownership of these

1 wellbores?

2 A. Yes, they did.

3 Q. So Devon is the operator of these Slider wells,
4 correct?

5 A. Correct.

6 Q. Were they provided notice of this hearing?

7 A. Yes, they were.

8 Q. And are they aware of the overlapping spacing
9 unit?

10 A. Yes, they are.

11 Q. They were provided notice of that, too?

12 A. Yes.

13 Q. Do they have any objection?

14 A. No.

15 Q. Do you understand that the allowable for the
16 project area will be curtailed by the production from
17 the spacing units that are overlapping?

18 A. Yes, we do.

19 Q. Is Exhibit 4 a sample copy of the well-proposal
20 letter that you sent to the uncommitted interest owners?

21 A. Yes, it is.

22 Q. That would be for the 16H well, correct?

23 A. Correct.

24 Q. When did you send this letter?

25 A. January 24th of 2017.

1 Q. And did it include an AFE?

2 A. Yes, it did.

3 Q. Are the costs on this AFE consistent with what
4 XTO and other operators in the area charge for similar
5 Bone Spring wells?

6 A. Yes, they are.

7 Q. And did your well proposal letter identify
8 overhead and administrative costs dealing with the well?

9 A. Yes, it did.

10 Q. What are your costs?

11 A. \$7,500 for drilling, 750 for producing.

12 Q. Are those rates consistent with what operators
13 in the area are charging for similar Bone Spring wells?

14 A. Yes, they are.

15 Q. Do you ask that those costs be incorporated
16 into any order resulting from this hearing?

17 A. Yes.

18 Q. Do you ask that the cost be adjusted in
19 accordance with the COPAS accounting procedures?

20 A. Yes, we do.

21 Q. For any uncommitted interest owners, are you
22 requesting a 200 percent risk penalty?

23 A. Yes, we are.

24 Q. In addition to sending this well-proposal
25 letter, what other efforts did you undertake to reach

1 **agreement with the parties you seek to pool?**

2 A. We have done follow-up emails and phone
3 conversations.

4 **Q. Have you spoken with each of the interest**
5 **owners that you seek to pool?**

6 A. Yes, I have.

7 **Q. They were all locatable, correct?**

8 A. Yes.

9 **Q. Did you publish notice of this hearing?**

10 A. Yes, we did.

11 **Q. That's included as Exhibit 5?**

12 A. Correct.

13 **Q. And did XTO identify the offset operators or**
14 **lessees of record in the 40-acre tracts surrounding the**
15 **spacing well?**

16 A. Yes, they did.

17 **Q. Were they included in the notice of this**
18 **hearing?**

19 A. Yes.

20 **Q. Is Exhibit 6 an affidavit prepared by my office**
21 **with attached letters providing notice to the parties**
22 **that you to seek to pool and the offset operators or**
23 **lessees of record?**

24 A. Yes, it is.

25 MS. KESSLER: Mr. Examiners, I move

1 admission of Exhibits 1 through 6, which includes the
2 notice affidavits.

3 EXAMINER JONES: Exhibits 1 through 6 are
4 admitted.

5 (XTO Energy, Inc. Exhibit Number 1 through
6 6 are offered and admitted into evidence.)

7 CROSS-EXAMINATION

8 BY EXAMINER JONES:

9 Q. So everybody was located, but you published
10 notice anyway. Is it because of the surrounding
11 operators or just published notice to be safe?

12 MS. KESSLER: Mr. Examiner, we had, for
13 other nearby wells, not received the green card back
14 from LRE Operating --

15 THE WITNESS: LRF.

16 MS. KESSLER: -- LRF Operating, but for
17 this one, we did receive the green card back.

18 EXAMINER JONES: Okay. Didn't we just have
19 a case -- I think Phil Goetze just wrote it up. Does
20 anybody know the case number on that one? It was the
21 same --

22 THE WITNESS: 15663 was one of them.

23 MS. KESSLER: And 15664.

24 THE WITNESS: 664 was another one.

25 EXAMINER JONES: Yeah. There were two of

1 them. Thanks.

2 Q. (BY EXAMINER JONES) So this is a two-mile-long
3 well, and there's a very small percentage of pooling.
4 Now, these people, where do they own interests, the
5 people that you're pooling? Is it all in one?

6 A. They own a portion of the north half of Section
7 8.

8 Q. North half of 8.

9 A. Uh-huh.

10 Q. Okay. So everybody that is being pooled is in
11 the east half of the northwest -- northeast quarter of
12 8?

13 A. Correct.

14 Q. Our records show that it's all federal fee and
15 federal surface; is that correct?

16 A. Correct.

17 Q. And they're all 40-acre tracts, all eight of
18 them?

19 A. Uh-huh.

20 Q. And why did you have to put the surface
21 location up in 5? Is it because you just wanted to get
22 more wellbore into the well or --

23 A. I believe so, and we've also -- I think it's a
24 multi-well pad that they've built up there.

25 Q. Okay. It'll be an off-lease measurement type

1 **thing, I guess.**

2 EXAMINER JONES: Mr. Brooks?

3 CROSS-EXAMINATION

4 BY EXAMINER BROOKS:

5 **Q. Well, first of all, when you said overlapping**
6 **project -- overlapping spacing unit, what you really**
7 **mean is overlapping project areas, correct?**

8 A. We don't define it as a project area, but yes.

9 **Q. Well, we do --**

10 A. Okay.

11 **Q. -- now. We may not --**

12 A. Okay.

13 **Q. -- in a short time, but as of now, we call them**
14 **project areas. And our I.T. people are very particular**
15 **about the fact that project areas can overlap but**
16 **spacing units can't. So we have to be respectable of**
17 **that. Whether those people are entitled to respect or**
18 **not is another question. If you're not in the computer,**
19 **you don't exist.**

20 **(Laughter.)**

21 EXAMINER JONES: He just wishes he had
22 stock in Amazon the last three months.

23 EXAMINER BROOKS: Yes.

24 **Q. (BY EXAMINER BROOKS) It looks to me like the**
25 **appropriate project area for these Slider wells would be**

1 the north -- would be the three sections, J, K and L or
2 the #1 and the #2 -- the three units, J, K and L, for
3 the #1 and #2, and M, N and O for the #3 -- #4. So it
4 looks like it would not actually be an overlap except as
5 to the surface location, which doesn't count. So what's
6 your response to that?

7 A. Well, they formed a 320-acre proration unit for
8 the Slider wells.

9 Q. That was by Division order?

10 EXAMINER JONES: It was probably before the
11 Horizontal Well Rule was --

12 MS. KESSLER: I think that's correct. And
13 on the Division Web site, you can see, Mr. Examiners,
14 320 dedicated acres for the first three --

15 EXAMINER BROOKS: Yeah, I see that, and I
16 don't know why, because you said -- when was it done?

17 MS. KESSLER: I believe it was 2010 --
18 2011.

19 EXAMINER JONES: Oh, that would have been
20 after.

21 EXAMINER BROOKS: That would have been
22 after the present rule was adopted.

23 Well, that's questionable, but it's been
24 done.

25 Q. (BY EXAMINER BROOKS) So I assume what they did

1 was -- I don't know what they did. That's very
2 confusing.

3 But have you filed -- you have filed a
4 C-102 for this?

5 A. Yes.

6 Q. The computer didn't kick it out. Well, I don't
7 see any reason why we should.

8 EXAMINER JONES: As far as the allowable
9 goes, it will be governed by the Horizontal Well Rule on
10 allowables.

11 EXAMINER BROOKS: Well, I guess. But I
12 don't know how it will be applied because that rule was
13 designed for a situation where a pre-existing vertical
14 well, a nonhorizontal well -- I'm speaking in the terms
15 of Fabiano [phonetic], uses the terms -- and I don't
16 know if it applies to if you have overlapping project
17 areas. But somebody will have to decide that, if
18 proration becomes an issue, and that will make
19 Ms. Kessler's client happy if that happens.

20 MS. KESSLER: I think the geologist is
21 prepared to testify -- as Ms. Repka mentioned, we had
22 two other cases involving these same wells in front of
23 the Division, but the production from these Slider wells
24 is very low. So XTO has agreed to curtail their
25 allowable, should that be necessary.

1 EXAMINER BROOKS: Okay.

2 RECROSS EXAMINATION

3 BY EXAMINER JONES:

4 Q. Do you think any of these will drop out?

5 A. We're still negotiating with all of those. I
6 spoke with five out of the six yesterday.

7 Q. Okay. So you also proposed -- these are
8 working interest owners?

9 A. Correct.

10 Q. So you proposed a JOA --

11 A. I did.

12 Q. -- to them, also?

13 A. Yes.

14 Q. And a well proposal?

15 A. Uh-huh.

16 RECROSS EXAMINATION

17 BY EXAMINER BROOKS:

18 Q. But you located the Allar Company?

19 A. Yes.

20 Q. I believe it was a few weeks ago. Somebody
21 testified they couldn't locate the Allar Company, but
22 glad you did.

23 A. I've spoken with him.

24 EXAMINER JONES: You put it in the
25 newspaper anyway. Okay. Thanks very much.

1 SHANE FINEGAN,
2 after having been previously sworn under oath, was
3 questioned and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. KESSLER:

6 Q. Please state your name for the record and tell
7 the Examiners by whom you're work and in what capacity.

8 A. My name is Shane Finegan, and I work as a
9 regional geologist for XTO Energy.

10 Q. Have you previously testified before the
11 Division?

12 A. I have.

13 Q. Were your credentials as a petroleum geologist
14 accepted and made a matter of record?

15 A. They were.

16 Q. Are you familiar with the application that's
17 been filed in this case?

18 A. Yes, I am.

19 Q. And have you conducted a geologic study of the
20 lands that are the subject of this hearing?

21 A. Yes.

22 MS. KESSLER: Mr. Examiners, I'd tender
23 Mr. Finegan as an expert in petroleum geology.

24 EXAMINER JONES: So qualified.

25 Q. (BY MS. KESSLER) Mr. Finegan, please turn to

1 **Exhibit 7, and I'd ask you to identify this map for us.**

2 A. This is a locator map showing the location of
3 the proposed Corral Canyon 15H, the wellbore highlighted
4 in yellow, and the yellow star at the bottom-hole
5 location of the well.

6 **Q. This also shows the Avalon producers and the**
7 **Bone Spring Sand producers, correct?**

8 A. Correct. The map shows producing Bone Spring
9 southeast wells, with producing Avalon Shale horizontal
10 wells highlighted with the blue circle at the
11 bottom-hole location of the wells, and Bone Spring Sand
12 wells highlighted with the pink diamond.

13 **Q. This also shows Devon Slider wells in Section**
14 **8?**

15 A. Correct. And they are Avalon Shale horizontal
16 wells.

17 **Q. And the proposed --**

18 A. Correct, the 2nd Bone Spring Sand.

19 **Q. What is Exhibit 8?**

20 A. Exhibit 8 is a structure map on the base of the
21 2nd Bone Spring Sand, with a 50-foot contour interval
22 showing consistent regional dip to the east of
23 approximately 1 degree. And the map also shows a line
24 of cross section, A to A prime, that will be shown on
25 Exhibit 9, a three-well cross section.

1 **Q. Have you identified the structure in this area**
2 **as being fairly consistent?**

3 A. Yes.

4 **Q. Is Exhibit 9 your corresponding cross-section**
5 **exhibit?**

6 A. Yes. That is the three-well cross section
7 indicated by the red line on Exhibit 8. And it shows
8 standard triple combo well logs with gamma ray in track
9 one in the far left, porosity logs in track two in the
10 middle, and resistivity logs in track three in the far
11 left.

12 **Q. Will you call that your target, on this**
13 **exhibit, correct?**

14 A. Correct. We plan on targeting the lower
15 portion of the 2nd Bone Spring Sand, which is indicated
16 by the red arrow. And this cross section is flattened
17 on the base of the 2nd Bone Spring Sand, and it shows
18 consistency across the area and that the formation is
19 present throughout the area with very little change in
20 thickness.

21 **Q. Based on your geologic study of this area, have**
22 **you identified any geologic impediments or hazards to**
23 **drilling a two-mile horizontal well?**

24 A. No, we have not.

25 **Q. And do you believe that the area can be**

1 efficiently and economically developed with horizontal
2 wells?

3 A. Yes, I do.

4 Q. In your opinion, will each of the 40-acre
5 tracts contribute, more or less, equally to the
6 production from the well?

7 A. Yes.

8 Q. And the completed interval for this well
9 complies with the Division statewide setback
10 requirements, correct?

11 A. Correct.

12 Q. In your opinion, is the granting of this
13 application in the best interest of conservation, for
14 the prevention of waste and the protection of
15 correlative rights?

16 A. Yes.

17 Q. Were Exhibits 7 through 9 prepared by you or
18 compiled under your direction or supervision?

19 A. Yes, they were.

20 MS. KESSLER: Mr. Examiners, I'd move the
21 admission of Exhibits 7 through 9.

22 EXAMINER JONES: Exhibits 7 through 9 are
23 admitted.

24 (XTO Energy, Inc. Exhibit Numbers 7 through
25 9 are offered and admitted into evidence.)

1 CROSS-EXAMINATION

2 BY EXAMINER JONES:

3 Q. So we don't have an NSL in this case, just a
4 standard.

5 And so why was the Avalon such a popular
6 target? And you guys are not going for it here or just
7 trying a new zone?

8 A. Well, the 2nd Bone Spring Sand is quite
9 prolific in this general area, and it seems to be a
10 better reservoir.

11 Q. Okay. The wells to the north are Bone Spring?

12 A. Yes, sir. The wells to the north are mostly
13 2nd Bone Spring Sand wells.

14 Q. And north-south is the preferred direction?

15 A. Yes, sir.

16 Q. Because why?

17 A. Well, for one, it minimizes structural dip
18 because the wells are oriented along strike, so they're
19 relatively flat.

20 Q. Okay. That's a geology answer. That's a good
21 one. Okay. I haven't that heard that one so far, I
22 don't think, but that's a good answer.

23 So -- and why the two miles instead of one?

24 A. Our engineers have determined that 10-mile
25 [sic] laterals is best economics. We have extended

1 experience drilling 10,000-foot laterals in the Midland
2 Basin, and so we like the economics on those much better
3 than shorter laterals.

4 Q. Okay. Well, you've already said that each 40
5 is going to contribute to the well. So these will be
6 drilled from north to south. So the people that are
7 getting pooled will be one of the last frac jobs in the
8 well, I take it, because it'll be the two 40s to the
9 north. They're in those, so --

10 A. Well, the wellbore will be completed at once.
11 It will be a multistage completion, but the whole
12 wellbore will be completed in a day or two.

13 Q. Okay. Are you guys BOPCO? XTO -- is it
14 combined already? Has it been combined already, or are
15 you -- you're all in Fort Worth, anyway?

16 A. Yes, sir. Yes. We have incorporated them into
17 us.

18 Q. I've heard those terms before.

19 EXAMINER BROOKS: Well, XTO was always in
20 Fort Worth, though.

21 EXAMINER JONES: Pardon?

22 EXAMINER BROOKS: XTO was always in Fort
23 Worth.

24 EXAMINER JONES: The land group was, right?

25 THE WITNESS: Well, the headquarters have

1 always been in Fort Worth.

2 EXAMINER JONES: Okay. Well, Exxon,
3 anyway, correct?

4 THE WITNESS: We are now.

5 EXAMINER JONES: Okay. I don't have any
6 more questions.

7 MS. KESSLER: Ask that this case be taken
8 under advisement.

9 EXAMINER JONES: Case 15718 is taken under
10 advisement.

11 (Case Number 15718 concludes, 1:56 p.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20

21

22 MARY C. HANKINS, CCR, RPR
23 Certified Court Reporter
24 New Mexico CCR No. 20
25 Date of CCR Expiration: 12/31/2017
Paul Baca Professional Court Reporters

25