

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.
to Amend Order R-20948 to add
Additional Pooled Parties
Eddy County, New Mexico

Case No. 22604

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 7, 2022

EXAMINER HEARING

This matter came on for hearing before the New Mexico Oil Conservation Division, William Brancard, Esq. Hearing Examiner, John Garcia Technical Examiner, on Thursday, April 7, 2022, via Webex Virtual Conferencing Platform hosted by the New Mexico Energy, Minerals and Natural Resources Department

Reported by: Mary Therese Macfarlane
New Mexico CCR #122
PAUL BACA COURT REPORTERS
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

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A P P E A R A N C E S

FOR XTO ENERGY: Michael Feldewert, Esq.
Holland & Hart
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
mfeldewert@hollandhart.com.

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1 (Time noted 9:39 a.m.)

2 EXAMINER BRANCARD: With that I will call Case
3 22604, XTO Energy.

4 MR. FELDEWERT: Good morning, Mr. Brancard, Mr.
5 Garcia. Michael Feldewert of the Santa Fe office of
6 Holland and Hart appearing on behalf of the applicant.

7 EXAMINER BRANCARD: Thank you, Mr. Feldewert.
8 Are you doing this case on its own? Not with -609, -610,
9 correct?

10 MR. FELDEWERT: This is a different acreage,
11 standalone case, yes.

12 EXAMINER BRANCARD: Any other interested
13 persons, then, for case 22604? (Note: Pause.)

14 Hearing none, you may proceed, Mr.
15 Feldewert.

16 MR. FELDEWERT: Thank you. In this matter XTO
17 seeks to pool some unleased mineral owners and add them to
18 the terms of the current Pooling Order, which is R-20498
19 that was issued in Case 20636 in November of 2019.

20 In November of 2019 the Division issued an
21 Order pooling uncommitted interest owners in the Wolfcamp
22 Formation underlying the east half of the west half of
23 Sections 19 and 30 and the east half of the northwest
24 quarter of Section 31 down in 23 South, 30 East, in Eddy
25 County.

1 Now, these two-and-a-half-mile wells were
2 drilled. They were the Remuda North 31 State wells.
3 There was a number of them. And we've submitted with our
4 hearing package the affidavit of Mr. Salinas, who
5 testifies that they seek to add to the existing pool these
6 unleased mineral owners, who are all in a 40-acre tract of
7 land comprised of the northeast quarter of the northwest
8 quarter of Section 19.

9 So if you look at his Exhibit A-1 it's the
10 tract A colored up there in purple.

11 There's about 10 percent unleased mineral
12 ownership there that were not pooled initially, and as Mr.
13 Salinas points out, the company records indicate that they
14 understood that the acreage had been leased in 2019 when
15 they sought the Pooling Order, therefore these entities
16 were not named and not provided Notice of the hearing.

17 It has since been determined that the lease
18 terminated, and so they now seek to add these what are now
19 unleased mineral owners to the terms of the existing
20 Pooling Order.

21 So he's provided to you his Exhibit A-2,
22 which is a breakdown. And, as I said, the parties that
23 they seek to pool are in Tract A. He has also then
24 provided a sample of the Well Proposal Letter that went
25 out to these unleased mineral interest owners along with

1 the AFE. That's Exhibit A-2.

2 And we provided one for each well, because
3 there's four wells that were drilled under that Pooling
4 Order. That's why you see four different Letters and four
5 different AFEs.

6 He also then provides as Exhibit A-3 his
7 Summary of Communications with all of these unleased
8 mineral interest owners. It has a cover page, or first
9 page, and then a spreadsheet that identifies in a little
10 more detail the efforts he had undertaken to attempt to
11 reach a voluntary agreement with these mineral owners.

12 Exhibit B is the Notice Affidavit that I
13 have been using for a number of years without any
14 discussion from the Division about any concerns with that,
15 in which I represent that the Notice Letter went out on
16 the date that we have on the letter, which is March 18th,
17 and we provide the postal report that we've been providing
18 for a number of years to avoid the multiple certification
19 letters that we used to use back in the day and paste them
20 on a piece of paper and then in the very thick sick
21 packet. We now use a postal report that I thought the
22 Division liked, and it is the most recent postal report
23 that we can pull down.

24 So that is Exhibit B. Exhibit C is our
25 Affidavit of Publication in which we name these parties

1 directly because when we get the postal report from the
2 post office that they fill out, they give us the
3 information that you see in the UPS stats. There's
4 nothing I can do about that. That is the information they
5 give us.

6 So that's why we've attached Exhibit C.

7 So with that said, I would move the
8 admission of XTO Exhibits A, B and C, and point out that
9 we don't seek any changes to the Pooling Order. All XTO
10 is seeking to do here is add this group of now unleased
11 mineral interest owners in Tract A that's depicted on
12 Exhibit A-1.

13 So that's my presentation and my comments,
14 Mr. Brancard.

15 EXAMINER BRANCARD: Thank you.

16 Mr. Garcia, questions?

17 EXAMINER GARCIA: Yeah. So bear with me, Mr.
18 Feldewert. I know where it is for Tract A, but where is
19 Tract D on your exhibit?

20 MR. FELDEWERT: I'm sorry?

21 EXAMINER GARCIA: Where is Tract D on Exhibit
22 A-1? I see it on a map but I don't see who owns it, I
23 guess. I know you're only interested in Tract A but I
24 guess I'm just curious.

25 MR. FELDEWERT: Good question. I hadn't noticed

1 that.

2 I will check with our landman, although he
3 may be on as a participant. He may be able to answer
4 that.

5 I believe it's 100 percent Chevron (sic)
6 but I'm not sure. Would that be helpful?

7 EXAMINER GARCIA: Either way, I guess, I would
8 like an updated exhibit, because, you know, two years from
9 now when the public asks me questions, it's a lot easier
10 for me to point to case files than to comment on the
11 transcript, I guess.

12 MR. FELDEWERT: Thank you. I hadn't noticed
13 that. We will send an updated exhibit that identifies the
14 ownership in Tract D, as in David.

15 EXAMINER GARCIA: And I guess same caveat as me
16 and Adam discussed. You know, timely turnaround is
17 appreciated.

18 MR. FELDEWERT: Have I ever been untimely, Mr.
19 Garcia?

20 EXAMINER GARCIA: That's an all-counsel comment,
21 so...

22 MR. FELDEWERT: Okay. All right. You will get
23 a timely exhibit.

24 MR. GARCIA: I guess general comment. When I
25 say timely, seven days is timely in my eyes. When we

1 start talking about months, it's untimely.

2 MR. FELDEWERT: I totally agree with you.

3 MR. SALINAS: This is C.R. Salinas with XTO.

4 Tract D is 100 percent XTO, but we will
5 update that exhibit for you, Mr. Garcia.

6 EXAMINER GARCIA: Thank you.

7 MR. SALINAS: Yes, sir.

8 EXAMINER GARCIA: That's all my questions.

9 EXAMINER BRANCARD: Okay. And you may have that
10 exhibit in your next case, Mr. Feldewert, because I think
11 this is --

12 MR. FELDEWERT: I think you're right, Mr.
13 Brancard.

14 EXAMINER GARCIA: Because I think it's the same
15 tract. Is that correct or...

16 MR. FELDEWERT: Same tract, same owners,
17 correct.

18 EXAMINER BRANCARD: Okay.

19 So again trying to figure out who you gave
20 notice to. Your landman's affidavit says that they
21 provided addresses to your law firm where available.
22 Okay? So I'm assuming that means there were unlocatable
23 mineral owners, but there's no identification of
24 unlocatable mineral owners.

25 I just did a quick look of your Tract A

1 people and I came up with, I don't know, 24, 25 names, and
2 then when I go to your mailing USPS Report I think there
3 is only like 18 or 19 names. So presumably there are
4 people you could not find, but we don't know who they are.

5 MR. FELDEWERT: That XTO could not find, yes.

6 EXAMINER BRANCARD: Okay. So you agree that
7 there are unlocatable mineral owners here.

8 MR. FELDEWERT: I would defer to our landman who
9 just spoke, Mr. Salinas. Would you like him on the line
10 to be sworn?

11 EXAMINER GARCIA: Sure.

12 MR. FELDEWERT: First off, would you state your
13 full name, Mr. Salinas.

14 THE WITNESS: Yes. Carlos Salinas.

15 EXAMINER GARCIA: Would you raise your right
16 hand, Mr. Salinas, even though I can't see it.

17 CARLOS SALINAS,

18 having been duly sworn, testified as follows:

19 EXAMINATION

20 BY EXAMINER BRANCARD:

21 Q. So are there unleased mineral owners in the
22 Tract A people who you could not even find an address for?

23 A. Uhm, no, we were able to find everybody who has
24 shown up in our title search as locatable.

25 Q. But there were unlocatable?

1 A. Well, we have addresses -- we have addresses for
2 all of the unleased mineral owners.

3 **Q. But on the mailing report that the Holland &**
4 **Hart law firm has sent there are fewer item number names**
5 **and listings than there are in the listings in your**
6 **Tract As.**

7 A. I think that is because some of the interests
8 may have consolidated.

9 But in the subject Tract A there are some
10 parties who we've reached voluntary agreements with. That
11 might be where they were not mailed out, and so we will
12 need to update that exhibit.

13 **Q. Okay. So we need to know who is being pooled**
14 **here.**

15 A. Yes. So an updated exhibit will be needed.

16 **Q. Mr. Feldewert, my understanding from your**
17 **witness is that the list on Exhibit A-1 of Tract A**
18 **ownerships, those are not all being pooled.**

19 A. That's correct.

20 **Q. So we normally have a list of pooled parties, so**
21 **we will need that. Hopefully that list of pooled parties**
22 **meshes with your mailing list.**

23 A. I believe it will once we update this exhibit.

24 **Q. While I have you on the line, Mr. Salinas, I**
25 **will just ask this as general question. This may be my**

1 ignorance, but I notice when you're sending out these AFEs
2 to these people that have a small interest in the property
3 here -- and everyone in Tract A is less than 1 percent, I
4 think, of the total interest in the unit. When you send
5 them an AFE that says it will cost \$12 million -- did
6 cost, I assume \$12 million to drill and complete the well,
7 is there any information provided to that person, the
8 interest owner, what their percentage is so they have a
9 sense of what they would be expected to pay, or do you
10 just sort of figure you will follow up with a phone call
11 with that?

12 A. Follow up. And that interest is listed in the
13 JOA that's being negotiated with that party.

14 Q. Okay. So you expect them to do the math and
15 figure out they don't owe 12 million, they may owe just
16 100,000?

17 A. Yes, sir. Or less than that.

18 EXAMINER GARCIA: Right. Okay. So okay.

19 Mr. Feldewert, then what do we need to get
20 from you here?

21 MR. FELDEWERT: My understanding is we will
22 submit a revised Exhibit A-1 that will identify the owners
23 in Tract D and we will also provide some designation as to
24 which of the parties in Tract A are being pooled, since
25 not all of them -- or some of them have reached an

1 agreement.

2 EXAMINER BRANCARD: Okay. So you think that the
3 Tract A list that you have on Exhibit A-1, those names
4 need to be updated, as opposed to just who's being pooled?

5 MR. FELDEWERT: Those names, the way I'm going
6 to instruct them to do it is I will have them highlight
7 the parties in Tract A that remain to be pooled as of the
8 date that we send it in. Does that make sense?

9 EXAMINER BRANCARD: Yes. That's actually
10 something that we normally do, or some parties do, they
11 highlight who is being pooled.

12 And so then you and your land person will
13 then compare that with the list of who got Notice?

14 MR. FELDEWERT: Yes.

15 EXAMINER BRANCARD: And you're pretty sure those
16 will be the same?

17 MR. FELDEWERT: Yes.

18 EXAMINER GARCIA: Or are you just...

19 Okay. I'm just again wondering whether we
20 need to continue this case.

21 And will we have the same problem on -609,
22 -610?

23 MR. FELDEWERT: The next -- yes, involving the
24 Remuda North 708H well, I believe so. But I agree, I
25 don't think it requires a continuance -- you know, unless

1 we observe a Notice problem. But I don't anticipate one,
2 based on what Mr. Salinas has said.

3 So we could submit a Revised Exhibit A-1
4 and you should be able to take this matter under
5 advisement.

6 MR. SALINAS: It will be the same for the next
7 case. There's some parties that we've reached agreements
8 with.

9 EXAMINER GARCIA: All Right. So if you can then
10 provide us an updated Exhibit A-1 which makes clear which
11 of these parties are being pooled in this case on Tract A.
12 Because it's just Tract A, right?

13 MR. FELDEWERT: Correct.

14 EXAMINER GARCIA: If you can get that to us
15 within seven days, and also verify at that point whether
16 these are the same names that were Noticed. And if not,
17 you're going to have to ask for a continuance.

18 Mr. Garcia, any other questions?

19 EXAMINER GARCIA: No more questions.

20 EXAMINER GARCIA: All right. With that Case
21 22604 will be taken under advisement.

22 (Time 9:52 a.m.)

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25

1 STATE OF NEW MEXICO)

2 : ss

3 COUNTY OF TAOS)

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REPORTER'S CERTIFICATE

6

I, MARY THERESE MACFARLANE, New Mexico Reporter

7

CCR No. 122, DO HEREBY CERTIFY that on Thursday, April 7,

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2022, the proceedings in the above-captioned matter were

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taken before me; that I did report in stenographic

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shorthand the proceedings set forth herein, and the

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foregoing pages are a true and correct transcription to

12

the best of my ability and control.

13

I FURTHER CERTIFY that I am neither employed by

14

nor related to nor contracted with (unless excepted by the

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rules) any of the parties or attorneys in this case, and

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that I have no interest whatsoever in the final

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disposition of this case in any court.

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/S/CCR/Mary Therese Macfarlane

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MARY THERESE MACFARLANE, CCR

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