

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., FOR )  
APPROVAL OF SURFACE COMMINGLING, )  
SAN JUAN COUNTY, NEW MEXICO )

CASE NO. 13,545

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: RICHARD EZEANYIM, Hearing Examiner

August 25th, 2005

Santa Fe, New Mexico

2005 SEP 9 PM 1 23

This matter came on for hearing before the New Mexico Oil Conservation Division, RICHARD EZEANYIM, Hearing Examiner, on Thursday, August 25th, 2005, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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I N D E X

August 25th, 2005  
Examiner Hearing  
CASE NO. 13,545

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APPLICANT'S WITNESS:	
<u>CHRISTOPHER SPENCER</u> (Landman)	
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## E X H I B I T S

Applicant's	Identified	Admitted
Exhibit 1	5	7
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\* \* \*

## A P P E A R A N C E S

## FOR THE DIVISION:

GAIL MacQUESTEN  
 Deputy General Counsel  
 Energy, Minerals and Natural Resources Department  
 1220 South St. Francis Drive  
 Santa Fe, New Mexico 87505

## FOR THE APPLICANT:

JAMES G. BRUCE  
 Attorney at Law  
 P.O. Box 1056  
 Santa Fe, New Mexico 87504

\* \* \*

1           WHEREUPON, the following proceedings were had at  
2 10:36 a.m.:

3           EXAMINER EZEANYIM: At this point, I call Case  
4 Number 13,545. This is the Application of XTO Energy,  
5 Inc., for approval of surface commingling, San Juan County,  
6 New Mexico.

7           Call for appearances.

8           MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,  
9 representing the Applicant. This matter was advertised so  
10 that in the absence of objection it would be taken under  
11 advisement, but I do have one witness to provide some brief  
12 testimony as to why this should be taken under advisement.

13           EXAMINER EZEANYIM: May the witness stand to be  
14 sworn? -- Any other appearances?

15           MR. BRUCE: Mr. Examiner, if the record could  
16 reflect that the one witness is Christopher Spencer, who  
17 was previously sworn in and qualified as a landman.

18           EXAMINER EZEANYIM: Mr. Spencer, you are still  
19 under oath. Mr. Bruce?

20                           CHRISTOPHER SPENCER,  
21 the witness herein, having been previously duly sworn upon  
22 his oath, was examined and testified as follows:

23                           DIRECT EXAMINATION

24 BY MR. BRUCE:

25           Q. Mr. Spencer, let's try to make this as short as

1 possible. Just briefly, what is Exhibit 1 that has been  
2 submitted to the Examiner?

3 A. Exhibit 1 is our administrative application  
4 checklist where we originally applied for the surface  
5 commingling of the wells listed.

6 Q. And -- Go ahead.

7 A. It's basically the Application as originally  
8 submitted to the Commission.

9 Q. Okay, and this was submitted for administrative  
10 approval, without a hearing?

11 A. Yes.

12 Q. And four pages into it there are Form C-102s  
13 which show the three wells for which you seek surface  
14 commingling; is that correct?

15 A. That is correct.

16 Q. Now, with respect -- with regard to the  
17 administrative application, did you notify all of the  
18 interest owners in this particular half section of land?

19 A. Yes.

20 Q. And what happened when notice was given?

21 A. When notice was given, when notice was originally  
22 given, there was one overriding royalty interest owner who  
23 had made a protest to the Application. The original person  
24 that made the protest, in turn, was not subject to  
25 notification, did not have the right to protest, and did

1 not own an interest in the three wells that were --

2 Q. Okay, and who was that person?

3 A. That person was Mr. Lanham Higginbotham.

4 Q. Okay. But as a result of the objection, this  
5 matter was set for hearing, correct?

6 A. Yes.

7 Q. And as a result, did you renotify all of the  
8 proper interest owners, those entitled to notice, of this  
9 Application?

10 A. Yes.

11 Q. And is notice to those parties to whom written  
12 notice was given marked as Exhibit 2?

13 A. Yes.

14 Q. There were also some unlocatable persons with  
15 respect to this Application, were there not?

16 A. Yes.

17 Q. And was notice published in the Farmington  
18 newspaper regarding -- as to these people?

19 A. Yes.

20 Q. And is that marked as Exhibit 3? ✓

21 A. Yes, it is. ✓

22 Q. Now, you mentioned Mr. Higginbotham. He was  
23 given notice of the administrative application. What did  
24 you do after he objected to determine who should have been  
25 given notice?

1           A.    We basically researched our records, found that  
 2 there was an error in the ownership that was pulled in on  
 3 the originally generated report. We then, after noticing  
 4 the correct owners, informed Mr. Higginbotham that his  
 5 original notice was in error

6           Q.    Okay. And is the letter to Mr. Higginbotham  
 7 telling him that he was not a participant in these wells  
 8 marked as Exhibit 4?

9           A.    Correct.

10          Q.    As a result of this, in your opinion, should this  
 11 matter simply be taken under advisement or referred back to  
 12 the administrative docket?

13          A.    Yes.

14          Q.    And were Exhibits 1 through 4 compiled from  
 15 company business records or prepared by you?

16          A.    Yes.

17               MR. BRUCE: Mr. Examiner, I'd move the admission  
 18 of Exhibits 1 through 4.

19               EXAMINER EZEANYIM: Exhibits 1 through 4 will be  
 20 admitted into evidence.

21               Gail?

22                               EXAMINATION

23 BY MS. MacQUESTEN:

24           Q.    Why was Mr. Higginbotham included in notice the  
 25 first time around?

1           A.    The report that was originally pulled where the  
2 ownership was downloaded from existing divisions of  
3 interest, somehow another offsetting well that was not  
4 included in the original application, the owners from that  
5 well were included in the notice. These were additional  
6 owners that were not included in the original.

7                   MS. MacQUESTEN: That's all.

8                                   EXAMINATION

9 BY EXAMINER EZEANYIM:

10           Q.    What lands are we talking about here? Is it  
11 federal, state, fee?

12           A.    These are federal. ✓

13           Q.    Federal lands?

14           A.    These are federal and fee. ✓

15           Q.    Okay. And BLM got some notice about this?

16           A.    Yes.

17           Q.    And what did -- did they concur to it?

18           A.    Yes. ✓

19           Q.    What is the method of production allocation?

20           A.    Pardon?

21           Q.    Production allocation, what is the method to  
22 allocate production?

23           A.    The method to allocate the production was --  
24 basically said -- I don't have that engineering specifics  
25 of the method to allocate. The purpose of the commingle

1 was to use a common compressor site. The wells, I'm  
2 assuming, would be individually metered.

3 Q. In case they have to have direct measurements?

4 A. Yes.

5 MR. BRUCE: Mr. Examiner, the administrative  
6 application does reflect that they're separately metered --

7 EXAMINER EZEANYIM: Separately metered.

8 MR. BRUCE: -- before compressing.

9 EXAMINER EZEANYIM: I have nothing further.

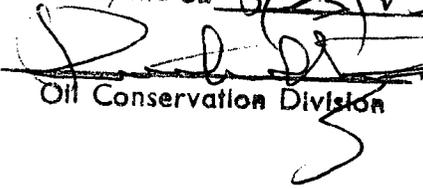
10 MR. BRUCE: That's all I have in this matter, Mr.  
11 Examiner.

12 EXAMINER EZEANYIM: At this time Case Number  
13 13,545 will be taken under advisement. You may be excused.

14 (Thereupon, these proceedings were concluded at  
15 10:43 a.m.)

16 \* \* \*

17  
18 I do hereby certify that the foregoing is  
19 a complete record of the proceedings in  
20 the Examiner hearing of Case No. 13,545  
21 heard by me on 8/25/05.

22   
23 Examiner  
24 Oil Conservation Division  
25

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF SANTA FE )

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL September 7th, 2005.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 16th, 2006