

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:

ORIGINAL

APPLICATION OF XTO ENERGY,
INCORPORATED FOR A NONSTANDARD
SPACING AND PRORATION UNIT,
AND COMPULSORY POOLING, LEA
COUNTY, NEW MEXICO.

CASE NOS. 15206,
15207, 15208
and 15209

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

October 2, 2014

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER
GABRIEL WADE, LEGAL EXAMINER

RECEIVED OCO
OCT 21 P 3:55

This matter came on for hearing before the
New Mexico Oil Conservation Division, Phillip Goetze,
Chief Examiner, and Gabriel Wade, Legal Examiner, on
Thursday, October 2, 2014, 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
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

1 APPEARANCES
 2 FOR APPLICANT XTO ENERGY, INCORPORATED:
 3 MICHAEL H. FELDEWERT, ESQ.
 4 HOLLAND & HART
 5 110 North Guadalupe, Suite 1
 6 Santa Fe, New Mexico 87501
 7 (505) 988-4421
 8 mfeldewert@hollandhart.com

9 INDEX

| | PAGE |
|---|------|
| Case Numbers 15206, 15207, 15208 and 15209 Called | 3 |
| XTO Energy, Inc.'s Case-in-Chief: | |
| Witnesses: | |
| Keith Sawyer: | |
| Direct Examination by Mr. Feldewert | 4 |
| Cross-Examination by Examiner Goetze | 15 |
| Tom Anderson: | |
| Direct Examination by Mr. Feldewert | 15 |
| Cross-Examination by Examiner Goetze | 21 |
| Proceedings Conclude | 23 |
| Certificate of Court Reporter | 24 |

| | |
|---|----|
| EXHIBITS OFFERED AND ADMITTED | |
| XTO Energy, Inc. Exhibit Numbers 1 through 12 | 15 |
| XTO Energy, Inc. Exhibit Numbers 13 and 14 | 21 |

25

1 (8:53 a.m.)

2 EXAMINER GOETZE: The next case on the
3 docket is Case 15206, application of XTO Energy,
4 Incorporated for a nonstandard spacing and proration
5 unit and compulsory pooling, Lea County, New Mexico.

6 Call for appearances.

7 MS. FELDEWERT: May it please the Examiner,
8 Michael Feldewert, with the Santa Fe office of Holland &
9 Hart, appearing on behalf of the Applicants. I have two
10 witnesses here today.

11 And, Mr. Examiner, as our pre-hearing
12 statement had indicated, I've prepared the case in order
13 to be able to present all four cases on page 2 at one
14 time.

15 EXAMINER GOETZE: Unfortunately, this
16 examiner did not see the pre-hearing statement. And we
17 do like that concept, so we will go ahead at this time
18 and consolidate four cases.

19 Along with Case 15206, Case 15207,
20 application of XTO Energy, Incorporated for a
21 nonstandard spacing and proration unit and compulsory
22 pooling, Lea County, New Mexico, also Case 15208,
23 application of XTO Energy, Incorporated for a
24 nonstandard spacing and proration unit and compulsory
25 pooling, Lea County, New Mexico, and Case 15209,

1 application of XTO Energy, Incorporated for a
2 nonstandard spacing and proration unit and compulsory
3 pooling, Lea County, New Mexico will be consolidated.

4 Are there any other additional appearances?

5 Very good.

6 Mr. Feldewert, proceed.

7 MS. FELDEWERT: I have two witnesses that
8 need to be sworn.

9 EXAMINER GOETZE: Very good. Would the
10 witnesses please stand up, identify yourself and be
11 sworn in?

12 MR. SAWYER: My name is Keith Sawyer.

13 MR. ANDERSON: I'm Tom Anderson.

14 (Mr. Sawyer and Mr. Anderson sworn.)

15 MS. FELDEWERT: We'll call our first
16 witness.

17 EXAMINER GOETZE: Very good.

18 KEITH SAWYER,
19 after having been previously sworn under oath, was
20 questioned and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FELDEWERT:

23 Q. Would you please state your name, identify by
24 whom you're employed and in what capacity?

25 A. My name is Keith Sawyer. I'm employed by XTO

1 Energy.

2 Q. And how long have you been with XTO Energy?

3 A. I've been with XTO Energy for ten years.

4 Q. And what position do you hold?

5 A. I'm a division landman.

6 Q. And have your responsibilities as a division
7 landman included the Permian Basin of New Mexico?

8 A. Yes, it has.

9 Q. Mr. Sawyer, have you previously testified
10 before this Division?

11 A. I have not.

12 Q. Will you please provide the Examiner with your
13 educational background?

14 A. I graduated from the University of Texas in
15 1991 with a degree in petroleum land management.

16 Q. 1991?

17 A. 1981 (laughter).

18 EXAMINER GOETZE: You look pretty good
19 (laughter).

20 Q. (BY MR. FELDEWERT) What have you done since you
21 graduated in 1981?

22 A. In 1981, I was a field landman for a year up in
23 Denver. I spent 13 years with Sun Oil Company, Oryx
24 Energy Company. I spent another ten years marketing
25 natural gas with Pro Energy and Synergy, and then I've

1 been with XTO since 2005.

2 Q. Are you a member of any professional
3 affiliation?

4 A. Yes, I am.

5 Q. And what are those?

6 A. The American Association of Petroleum Landmen
7 and the Fort Worth Association of Petroleum Landmen.

8 Q. How long have you been a member of the AAPL?

9 A. I've been a member over 30 years.

10 Q. And in the Fort Worth organization?

11 A. Ten years.

12 Q. Are you familiar with the applications that
13 have been filed in these four consolidated cases?

14 A. Yes, I am.

15 Q. And are you familiar with the status of the
16 lands in the subject area?

17 A. Yes, I am.

18 MR. FELDEWERT: Mr. Examiner, I would
19 tender Mr. Sawyer as an expert witness in petroleum land
20 matters.

21 EXAMINER GOETZE: He is so qualified.

22 Q. (BY MR. FELDEWERT) Mr. Sawyer, on these
23 consolidated applications, how many wells are involved?

24 A. There are four wells.

25 Q. And we have four separate spacing units as

1 well?

2 A. Yes, we do.

3 Q. Where is the acreage location? What section
4 and township are involved?

5 A. These are in Section 31, in Township 19 South,
6 35 East.

7 Q. And if I turn to what's been marked as XTO
8 Exhibits 1, 2, 3 and 4, are these the applications for
9 permits drilled that have been filed with the Division
10 for the four wells involved in Section 31?

11 A. Yes, they are.

12 Q. Okay. And what is the target interval for
13 these four wells?

14 A. It's the 3rd Bone Spring.

15 Q. And do you seek to create four 160-acre
16 stand-up spacing units for each of these wells?

17 A. Yes, I do.

18 Q. And they are identified in the APDs that have
19 been filed?

20 A. Yes, they are.

21 Q. Do you now also seek to pool the uncommitted
22 interest owners in the Bone Spring Formation underlying
23 each of these four nonstandard 160-acre spacing units?

24 A. Yes, we do.

25 Q. Now, when these applications were originally

1 filed, what pool did the company place them into?

2 A. The Lea-Bone Spring.

3 Q. And did the Division's district office then
4 change the pool when it approved these applications for
5 permits to drill?

6 A. Yes, they did.

7 Q. And did they place them into a wildcat pool?

8 A. Yes, they did.

9 Q. If I then look at the second page of each of
10 the exhibits, 1, 2, 3 and 4, does it identify for the
11 Examiner the wildcat pool that this was placed -- that
12 these wells have been placed into?

13 A. Yes, it does.

14 Q. And does it provide the Examiner for each of
15 these wells with the pool code and the API number?

16 A. Yes, it does.

17 Q. This wildcat pool that's been identified by the
18 Division for these four wells, is it subject to the
19 Division statewide rules?

20 A. Yes, it is.

21 Q. And if I look at the -- and let's go just to
22 Exhibit Number 1. If I go to the last page of Exhibit
23 Number 1, this is the C-102 that was filed for this
24 particular well, which is the 1H well?

25 A. Yes.

1 Q. And does it demonstrate that the completed
2 interval for this well will comply with the Division
3 setback requirements?

4 A. Yes, it does.

5 Q. And is there a similar -- is there a similar
6 Form C-102 for each of the remaining wells in Exhibits
7 2, 3 and 4?

8 A. Yes, there are.

9 Q. And will each of these wells likewise comply
10 with the Division's 330-foot setback requirements?

11 A. Yes, it will.

12 Q. Now, has there been any recent change in the
13 surface location for one of your proposed wells?

14 A. Yes, there was.

15 Q. Do you remember which one?

16 A. I believe it was the 4.

17 Q. 4H?

18 A. Yes.

19 Q. If I turn to what's been marked as XTO Exhibit
20 Number 5, is that the Form C-103, along with a revised
21 Form C-102, noting this change in the surface location?

22 A. Yes, it is.

23 Q. And what was changed?

24 A. The surface location was changed from 170 feet
25 from the south line, 330 from the east line to 170 from

1 the south line and 700 feet from the east line.

2 Q. And what was the purpose -- what was the reason
3 for this change?

4 A. It was to comply with the protected lizard
5 habitat requirements.

6 Q. And was that required by the New Mexico State
7 Land Office?

8 A. Yes, it was.

9 Q. And so you then -- if I look at the last page
10 of Exhibit Number 5, that is the C-102 that was filed
11 with the Division to reflect this change in the surface
12 location?

13 A. That's correct.

14 Q. Now, this particular exhibit does not identify
15 your completed interval. Have you confirmed that your
16 completed interval with the surface change is still
17 going to comply with the Division's 330-foot setback
18 requirements?

19 A. Yes, I have. And yes, it will.

20 Q. All right. Now, Section 31 that's involved
21 here, is this all state land?

22 A. It is.

23 Q. If I turn to what's been marked as XTO Exhibit
24 Number 6, does the first page of this exhibit provide
25 the Examiners with, essentially, a map of Section 31

1 identifying the two tracts that are involved?

2 A. Yes, it does.

3 Q. And does it provide the ownership breakdown for
4 each of the two tracks involved in Section 31?

5 A. It does.

6 Q. Now, there are some remaining pages to this
7 Exhibit Number 6. How is this organized?

8 A. The first page is an overview showing all four
9 units. As you flip through it, it goes through,
10 starting with the 1H well, followed by the 2H, the 3H
11 and the 4H, all listing the various working interest
12 owners in each particular unit.

13 Q. Okay. And on each of these pages, it
14 identifies for the Examiners the sole interest owner
15 that remains uncommitted?

16 A. Yes, it does.

17 Q. And for the record, who is that -- or what
18 interest is that?

19 A. We have all of the interests signed up with the
20 exception of the last one indicated by an asterisk, a
21 J.M. Zacahary.

22 Q. And does Mr. Zacahary own an interest in each
23 of these four proposed nonstandard spacing units?

24 A. He does.

25 Q. All right. If I then take a look at XTO

1 Exhibits 7, 8, 9 and 10, do they comprise the
2 well-proposal letters that were sent to the interest
3 owners for each -- in each of these proposed spacing
4 units?

5 A. Yes, they do.

6 Q. And do each of these letters in Exhibits 7
7 through 10 -- at the time they were sent, did you also
8 provide the interest owners with an AFE for the proposed
9 well?

10 A. Yes, I did.

11 Q. And are the costs that are reflected on each of
12 these AFEs consistent with what the company has incurred
13 in drilling similar horizontal wells in the area?

14 A. Yes, they are.

15 Q. Now, did you attempt to provide Mr. Zacahary --
16 J.M. Zacahary's interest with notice of your well
17 proposal?

18 A. Yes, we did. The notice was returned to us
19 with no forwarding address.

20 Q. What efforts did you then undertake to identify
21 the interest comprising J.M. Zacahary?

22 A. We made a very thorough search of the Lea
23 County records. We looked on the Internet, contacted
24 other working interest owners in the unit and made
25 telephone calls to various previous business addresses,

1 none of which turned up Mr. Zacahary.

2 Q. If I then turn to what's been marked as XTO
3 Exhibit Number 11, is this an Affidavit of Publication
4 in a local newspaper directed to the interest of J.M.
5 Zacahary providing notice of this hearing here today?

6 A. Yes, it is.

7 Q. And does it provide notice to the interests of
8 J.M. Zacahary for each of the four cases that have been
9 consolidated for the hearing here today?

10 A. Yes, it does.

11 Q. Has the company made an estimate of the
12 overhead and administrative costs while drilling this
13 well and also while producing if you are successful?

14 A. Yes, we have.

15 Q. And what are those rates?

16 A. Our drilling well rate would be 7,500;
17 producing, 750.

18 Q. Are these the same rates that have been
19 accepted by the interest owners in the Joint Operating
20 Agreement for these various wells?

21 A. Yes, they have [sic].

22 Q. In the course of preparing for this hearing,
23 did the company identify the operators in the lease
24 minerals interest owners on the 40-acre tracts
25 surrounding each of the proposed 160-acre spacing units?

1 A. Yes, we did.

2 Q. Who compiled that work?

3 A. J Bar Cane out of Stanley, New Mexico.

4 Q. And did the company then include these known
5 operators and lease mineral interest owners in the
6 notice of this hearing?

7 A. Yes, they did.

8 Q. If I turn to what's been marked as XTO Exhibit
9 Number 12, is that an affidavit prepared by my office
10 with attached letters providing notice of this hearing?

11 A. Yes, it is.

12 Q. Along with the certified return receipts?

13 A. Yes.

14 Q. And if I flip through this exhibit, are there
15 letters that correspond to each of the proposed wells
16 that are the subject of these consolidated cases?

17 A. Yes, there are.

18 Q. And with each of these letters, are there
19 corresponding certified receipts?

20 A. Yes, there are.

21 Q. Were XTO Exhibits 1 through 11 prepared by you
22 or compiled under your direction or supervision?

23 A. Yes, they were.

24 MR. FELDEWERT: Mr. Examiner, at this time
25 I would move for admission into evidence Exhibits 1

1 through 12, which includes my Notice of Affidavit.

2 EXAMINER GOETZE: Exhibits 1 through 12 are
3 so entered.

4 (XTO Energy, Inc. Exhibit Numbers 1 through
5 12 were offered and admitted into
6 evidence.)

7 MR. FELDEWERT: That concludes my
8 examination of this witness.

9 CROSS-EXAMINATION

10 BY EXAMINER GOETZE:

11 Q. In all the information given by you, I just
12 want to get one clarification. So the completed
13 intervals for each of these wells will be within the
14 standard setbacks?

15 A. Yes, sir.

16 Q. Other than that, I have no other questions.
17 Thank you.

18 MR. FELDEWERT: We'll call our second
19 witness.

20 TOM ANDERSON,
21 after having been previously sworn under oath, was
22 questioned and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. FELDEWERT:

25 Q. Would you please state your name, identify by

1 whom you're employed and in what capacity?

2 A. I'm Tom Anderson. I'm the division geologist
3 for XTO Energy.

4 Q. And how long have you been with XTO Energy as a
5 division geologist?

6 A. I've been with XTO since 2012.

7 Q. And have your responsibilities included the
8 Permian Basin of New Mexico?

9 A. Yes, they have.

10 Q. Have you had the opportunity, Mr. Anderson, to
11 previously testify before this Division?

12 A. No, I haven't.

13 Q. Would you please outline your educational
14 background?

15 A. I have a bachelor's degree from South Florida
16 in 1977, a master's degree from Florida State in 1981,
17 and --

18 Q. Is that in --

19 A. In geology. In geology.

20 Q. And what has been your recent work history?

21 A. I started with Exxon in 1981, July of 1981, and
22 have had a variety of assignments and transferred to XTO
23 in 2012.

24 Q. And throughout that period of time, have you
25 been employed as a production exploration geologist?

1 A. Yes, I have.

2 Q. Are you a member of any professional
3 affiliation?

4 A. I'm a member of AAPG and the Geologic Society
5 of America.

6 Q. How long have you been a member of the AAPG?

7 A. 30 years.

8 Q. And the Geologic Society of America?

9 A. 32 years.

10 Q. Mr. Anderson, are you familiar with the
11 applications that have been filed in these consolidated
12 cases?

13 A. Yes, I am.

14 Q. And did you conduct a geologic study of the
15 lands that are the subject of these consolidated cases?

16 A. Yes, I did.

17 MR. FELDEWERT: I would tender Mr. Anderson
18 as an expert witness in petroleum geology.

19 EXAMINER GOETZE: He is an expert witness
20 in petroleum geology and a survivor of a long-term
21 relationship with Exxon. So I congratulate you on that.

22 THE WITNESS: Thank you (laughter).

23 Q. (BY MR. FELDEWERT) Were you here, Mr. Anderson,
24 when the target interval for these proposed wells was
25 identified?

1 A. Yes.

2 Q. Okay. Is it the 3rd Bone Spring sand?

3 A. It is.

4 Q. Have you prepared a structure map and a cross
5 section of this producing interval for the Examiner?

6 A. Yes, I have.

7 Q. If I turn to what's been marked as XTO Exhibit
8 Number 13, would you please identify this exhibit for
9 the Examiner, please, and tell us what it shows?

10 A. This is a structure map on the top of the 3rd
11 Bone Spring sand interval. It's contoured at 50 feet --
12 contouring interval is 50 feet. The subject section,
13 Section 31, 19 South, 35 east, is outlined in yellow.
14 The wells that have yellow highlights around them are
15 all 3rd Bone Spring sand penetrations. They are not
16 necessarily -- we don't have tops for all of these
17 wells, particularly the horizontal wells. The cross
18 section is identified on there with the blue line from A
19 to A prime. It's a five-well cross section.

20 Q. Now, the four stand-up horizontal wells that
21 are shown here in near Section 31, are they the proposed
22 wells?

23 A. They are.

24 Q. And what do you observe about the structure in
25 this area?

1 A. The structure is generally dipping to the
2 northwest. It's about a degree and a half. That's the
3 dip in there. That's pretty much it. It's a very
4 gently dipping structure.

5 Q. Do you observe any faults, any pinch-out or any
6 other geologic impediments to developing this area with
7 horizontal wells?

8 A. No. Absolutely not.

9 Q. Now, this map shows you utilized, what, five
10 wells for your cross section?

11 A. Yes, I did.

12 Q. In your opinion, are these wells representative
13 of the area in question?

14 A. Yes, they are. Three of them, in fact, are
15 pilot holes for the 3rd Bone Spring sand, horizontal
16 wells.

17 Q. If I then turn to what's been marked as XTO
18 Exhibit Number 14, are these the well logs that
19 correspond with the five wells that you identify on
20 Exhibit 13?

21 A. Yes. Yes, they are.

22 Q. And you mentioned that there were three wells
23 that you were going to be utilizing -- or are
24 utilizing -- for horizontal wells. Are they identified
25 on this Exhibit 14?

1 A. Yeah. They have the black triangles at the
2 top. They're the three wells in the center part of the
3 section.

4 Q. What is shown here on Exhibit 14?

5 A. The datum [sic] cross-section on the top of the
6 3rd Bone Spring sand. The 3rd Bone Spring sand interval
7 is highlighted in yellow. The red line at the base is
8 the top of the Wolfcamp, and the lateral interval is
9 identified on the central well, the lateral -- potential
10 lateral landing zone is identified on the central well.
11 The three pilot -- the laterals drilled from all three
12 of these pilot holes landed in essentially the same
13 interval.

14 Q. And what do you observe about the continuity of
15 your proposed target interval across Section 31?

16 A. The target interval is very continuous. A lot
17 of the thickening and thinning that goes on is going on
18 above and below the zones of primary interest.

19 Q. In your opinion, is this an area that can be
20 efficiently and economically developed by horizontal
21 wells?

22 A. Yes.

23 Q. And in your opinion, do you expect the acreage
24 that is included in your nonstandard' -- each of your
25 proposed nonstandard spacing units to contribute more or

1 less equally to the production of the well?

2 A. Yes, I do.

3 Q. In your opinion, will the granting of XTO's
4 application be in the best interest of conservation, the
5 prevention of waste and the protection of correlative
6 rights?

7 A. Yes, it will.

8 Q. Were XTO Exhibits 13 and 14 prepared by you or
9 compiled under your direction and supervision?

10 A. Yes.

11 MR. FELDEWERT: Mr. Examiner, at this time
12 I would move for admission into evidence XTO Exhibits 13
13 and 14.

14 EXAMINER GOETZE: Exhibits 13 and 14 are so
15 entered.

16 (XTO Energy, Inc. Exhibit Numbers 13 and 14
17 were offered and admitted into evidence.)

18 MR. FELDEWERT: And that concludes my
19 examination of this witness.

20 EXAMINER GOETZE: Very good.

21 CROSS-EXAMINATION

22 BY EXAMINER GOETZE:

23 Q. Could I have you take a look at Exhibit 13? In
24 Section 6, whose wells are those down there? Do you
25 have any idea?

1 A. Yeah. They're Concho. That's the Prickly Pear
2 wells.

3 Q. How was the uniformity of the sand north-south
4 as opposed to east-west? Did you see any change in the
5 pay zone, or is it fairly consistent, or --

6 A. It was actually fairly consistent in those two
7 wells in the south, and they performed very similarly.
8 Off the map to the north, Concho also has -- that's
9 their airstrip development.

10 Q. Okay.

11 A. And I think you or someone from your office had
12 a hearing on Tomcat Fee proposal by COG, which is also
13 to the north.

14 Q. And again done in a similar fashion?

15 A. Done in a similar fashion.

16 Q. Very well. I have no more questions. Thank
17 you.

18 MR. FELDEWERT: Mr. Examiner, that
19 concludes our presentation in these four consolidated
20 cases.

21 EXAMINER GOETZE: Very good, Mr. Feldewert.

22 On that note, Case 15206, Case 15207, Case
23 15208 and Case 15209 are taken under advisement.

24 At this point we will take a break.

25 For you folks here in the Encana cases,

1 they will be the next on the docket, so please bear with
2 us.

3 Let's have a ten-minute break.

4 (Case Numbers 15206, 15207, 15208 and 15209
5 conclude, 9:15 a.m.)
6
7
8
9
10
11

12 I do hereby certify that the foregoing is
13 a complete record of the proceedings in
14 the Examiner hearing of Case Nos. 15206
15 heard by me on October 3, 2014 15207
16 Phillip R. Dodge, Examiner 15208
17 Oil Conservation Division 15209
18
19
20
21
22
23
24
25

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO
3

4 CERTIFICATE OF COURT REPORTER

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

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

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

19 
20

21 MARY C. HANKINS, CCR, RPR
22 Paul Baca Court Reporters, Inc.
23 New Mexico CCR No. 20
24 Date of CCR Expiration: 12/31/2014
25