

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

**APPLICATION OF XTO ENERGY, INC., FOR
SPACING WITHIN THE BIG EDDY FEDERAL
EXPLORATORY UNIT, EDDY AND LEA
COUNTIES, NEW MEXICO**

CASE NO. 26248

MOTION IN LIMINE TO EXCLUDE V-F PETROLEUM INC.'S EXHIBIT 10

XTO Energy, Inc. (“XTO”), through its undersigned attorneys, hereby submits for filing with the Oil Conservation Division (the “**Division**”) its objection to the inclusion of V-F Petroleum Inc.’s (“**V-F**”) Exhibit 10, containing XTO’s Big Eddy Unit 2026 Plan of Development Letter (the “**BLM 2026 POD Letter**”), pursuant to the Pre-Hearing Order issued August 20, 2026. In support thereof, XTO states as follows.

BACKGROUND

1. This matter stems from XTO’s Application in Case No. 26248 to receive an order from the Division approving certain spacing accommodations within the Big Eddy Federal Exploratory Unit, Serial Number NMNM105467880, Legacy Serial No. NMNM068294X, located in Eddy and Lea Counties, New Mexico. The application was submitted on June 8, 2026. V-F entered its objection to the application on August 5, 2026, and submitted its Prehearing Statement detailing its objections and exhibit list on September 8, 2026. V-F submitted an amended Prehearing Statement on September 10, 2026.

2. On September 8, 2026, V-F served its hearing exhibit list, which included a confidential February 27, 2026, Letter detailing the 2026 Plan of Development from XTO to the Bureau of Land Management identified as Exhibit 10 which had been inadvertently uploaded by Division staff to the original case file number 365 establishing the Big Eddy Federal Exploratory

Unit. Nowhere in its Prehearing Statement, submitted the same day, does V-F mention beneficial use of its exhibits. Instead, V-F simply disclosed the confidential BLM 2026 POD Letter in its entirety, purportedly in preparation for the September 15, 2026, contested hearing in Case No. 26248 without additional comment as to its relevance. The following day, upon the realization that the BLM 2026 POD Letter was available for public viewing in Division Case File No. 365, XTO coordinated with the Division to request the BLM 2026 POD Letter be placed in confidential status, as it should have been originally. Division staff placed the BLM 2026 POD Letter in confidential status the same day, and it was no longer available for public access in the case file for Case No. 365. However, it is still available in Case No. 26248 as of the time of submission of this Motion.

3. The BLM 2026 POD Letter contains trade secret, highly confidential, and proprietary information regarding the oil and gas development plans for the Big Eddy Unit. The BLM 2026 POD Letter identifies Big Eddy Unit development frameworks, appraisal locations influencing future development decisions, mineral acquisition strategies, well-by-well permitting, drilling, and completion plans, planned surface disturbance by location and acreage, and maps of leases, wells, and geologic features of the Big Eddy Unit through 2030 that have not been released to the public.

LEGAL STANDARD

The Division utilizes the Rules of Evidence as guidance in conducting adjudicatory hearings, including determinations regarding the admissibility of evidence and precluding immaterial, repetitious, or otherwise unreliable evidence. *See* 19.15.4.17(a) NMAC. Under Rule 11-508 NMRA, “a person or entity owning a trade secret has a privilege to refuse to disclose, or to prevent others from disclosing, the trade secret.” The privilege may be claimed by a person or

entity owning the trade secret, including any agent or employee of that person or entity. *See* Rule 11-508(b) NMRA. A person who possesses a privilege against disclosure of a confidential matter or communication only waives the privilege if the person *voluntarily* discloses or consents to disclosure of any significant part of the matter or communication. *See* Rule 11-511 NMRA. This rule does not apply if the disclosure is a privileged communication. *Id.* Additionally, under Rule 11-502 NMRA for Required reports, should any law require a return or report (i.e., a required annual POD report to the BLM and SLO) to be made and the law mandating the creation of that return or report provides for its confidentiality, the person or entity, in either a public or private capacity, making the return or report has a privilege to refuse to disclose, or to prevent any other person from disclosing, the return or report. *See* Rule 11-502 NMRA. Lastly, the Rules of Evidence always afford the Division the opportunity to exclude submitted evidence if it finds there to be a danger of unfair prejudice that substantially outweighs the probative value. *See* Rule 11-403 NMRA.

ARGUMENT

The BLM 2026 POD Letter is highly confidential, and contains trade secret and proprietary information, public disclosure of which has already caused, and will continue to cause on an ongoing basis, significant prejudice and economic harm to XTO if made publicly available. Thus, the Division should either prevent its disclosure in its entirety or significantly restrict its use during the hearing to ensure that it is not made publicly available.

a. Legal Authority.

In New Mexico, trade secrets are defined as “information, including a formula, pattern, compilation, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily

ascertainable by proper means by other person who can obtain economic value from its disclosure or use.” NMSA 1978, § 57-3A-2(D)(1).

Under Rule 11-508, and unless upholding the privilege will tend to conceal fraud or otherwise work an injustice, a person or entity owning a trade secret has a privilege to refuse to disclose, or to prevent others from disclosing, the trade secret. *See* Rule 11-508(A) NMRA; *see also Pincheira v. Allstate Ins. Co.*, 2008-NMSC-049, 144 N.M. 601, 190 P.3d 322 (outlining the various protections afforded to parties claiming trade secret privilege). Thus, New Mexico affords significant protections to parties claiming privileges and will not admit evidence against the privilege holder, particularly when the disclosure “was made without the opportunity [for the privilege holder] to claim the privilege.” Rule 11-512(B) NMRA.

b. The BLM Letter is Confidential and Contains Trade Secret and Proprietary Information.

Here, the information contained in the BLM 2026 POD Letter is confidential trade secrets that were never intended to be publicly accessible or otherwise “readily ascertainable.” Specifically, the BLM 2026 POD Letter contains highly confidential proprietary information that was generated by XTO for its exclusive use including, but not limited to, developed maps, information regarding surface disturbance, and plans for the Big Eddy Federal Exploratory Unit through 2030 as required by federal and state regulations. Indeed, the confidential nature of the BLM 2026 POD Letter is facially apparent because every page bears the explicit designation, “Big Eddy Unit, Eddy Co., NM POD – 2026 CONFIDENTIAL.” *See* V-F Petroleum Inc.’s Exhibits pp. 51-177 (Received by OCD 9/8/2026).

Although the BLM 2026 POD Letter was unknowingly and mistakenly uploaded to a public-access portal, XTO immediately requested that it be removed from the case file once XTO discovered the mistake. On September 9, 2026, the Division removed the BLM 2026 POD Letter

from the public-access portal in Case No. 365 to ensure that it remained confidential. *See* E-mail from Jesse Tremaine, Legal Director, Oil Conservation Division, to Brandon Powell, Deputy Director, Oil Conservation Division (Sept. 9, 2026, at 3:27 P.M. M.S.T.), attached as **Exhibit A**. Thus, the Division itself is aware of the highly confidential nature of the BLM Letter and has already employed prior protections.

Inclusion of the BLM 2026 POD Letter by V-F among its exhibits listed the BLM Letter as a potential hearing exhibit. The BLM 2026 POD Letter then became available through the public-access portal in Case No. 26248. This significantly increases the likelihood of public disclosure of the BLM 2026 POD Letter, and prevented XTO from claiming the privilege before public disclosure of the privileged materials. This is evidenced by the BLM 2026 POD Letter being available through the public-access portal in Case No. 26248, as well as links to and images of the document being circulated on X (Twitter), attached as **Exhibit B**. Portions of Exhibit B have been redacted so as to not further propagate the confidential and privileged information contained therein. In short, V-F has caused the BLM 2026 POD Letter to go viral. XTO sees no other recourse but to move the Division to ensure that it is precluded from admission in Case No. 26248 and struck from the public-access portal. Accordingly, the Division should continue to recognize the confidential nature of the BLM 2026 POD Letter and preclude its admission during the hearing as required by the Rules of Evidence. Rule 11-512(B).

*c. **Alternatively, the Division Should Only Admit the BLM 2026 POD Letter Under Seal to Prevent its Public Dissemination.***

If the Division allows the BLM 2026 POD Letter to be admitted into evidence, Rule 11-508(C) NMRA guides the process, requiring the Division to “order any appropriate protective

measures to safeguard the interests of the trade secret's owner or any interests that justice requires” if it allows a trade secret to be admitted into evidence.

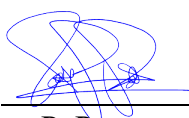
CONCLUSION

For all the foregoing reasons, XTO Energy, Inc. respectfully requests that the Division:

1. Deny the admission of V-F's Exhibit 10 in full;
2. Immediately remove V-F's September 9, 2026, exhibit packet and prehearing statement entirely from the public-access portal;
3. Overrule the Preliminary Objections filed by V-F on September 10, 2026, as they are in regard to confidential information contained in the BLM 2026 POD Letter;
4. Require V-F to file an amended exhibit packet removing Exhibit 10;
5. Require V-F to file an amended prehearing statement removing all references to Exhibit 10, the BLM 2026 POD Letter, and all information and materials contained in the BLM 2026 POD Letter; and
6. Grant such other and further relief as the Division deems just and proper.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By: 
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Attorneys for XTO Energy, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served to counsel of record by electronic mail this 11th day of September 2026, as follows:

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Attorney for Pride Energy Company



Rachael Ketchledge

EXHIBIT A

From: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>
Sent: Wednesday, September 9, 2026 3:27 PM
To: Powell, Brandon, EMNRD; Marks, Allison; Wrinkle, Justin, EMNRD
Cc: Jacob Everhart; Miguel Suazo; Rachael Ketchledge; Raj Lahoti; Norwood, Aaron A; Hall, Michael, EMNRD; Bassett, Charles; Wylie, Jason; James Parrot; Marks, Allison; amy.vermersch@emnrd.nm.gov; Miguel Suazo
Subject: RE: Confidential info upload

CAUTION: EXTERNAL SOURCE

It is down.

Jesse K. Tremaine
Legal Director, Oil Conservation Division
Office of General Counsel
New Mexico Energy, Minerals & Natural Resources Department
1220 South St. Francis Dr., Santa Fe, NM 87505
Cell: (505) 231-9312
E-mail: JesseK.Tremaine@emnrd.nm.gov



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From: Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>
Sent: Wednesday, September 9, 2026 3:25 PM
To: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>; Marks, Allison <amarks@nmslo.gov>; Wrinkle, Justin, EMNRD <Justin.Wrinkle@emnrd.nm.gov>
Cc: Jacob Everhart <jeverhart@bwenenergylaw.com>; Miguel Suazo <msuazo@bwenenergylaw.com>; Rachael Ketchledge <rketchledge@bwenenergylaw.com>; Raj Lahoti <rlahoti@bwenenergylaw.com>; Norwood, Aaron A <aaron.norwood@exxonmobil.com>; Hall, Michael, EMNRD <Michael.Hall@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>; Bassett, Charles <ralph.c.bassett@exxonmobil.com>; Wylie, Jason <jason.wylie@exxonmobil.com>; James Parrot <JParrot@bwenenergylaw.com>; Marks, Allison <amarks@nmslo.gov>; amy.vermersch@emnrd.nm.gov; Miguel Suazo <msuazo@bwenenergylaw.com>
Subject: Confidential info upload
Importance: High

PLEASE NOTE,

EXHIBIT A

There are several independent emails going around on this. Please note it is being worked on, and Jesse has taken lead and is working with our Engineering Department.

Thank You

Brandon Powell
Deputy Director
New Mexico Oil Conservation
(505) 320-0200



EXHIBIT A

From: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>
Sent: Wednesday, September 9, 2026 3:09 PM
To: Marks, Allison; Norwood, Aaron A; Hall, Michael, EMNRD; Powell, Brandon, EMNRD
Cc: Bassett, Charles; Wylie, Jason; James Parrot; amy.vermersch@emnrd.nm.gov
Subject: RE: [EXTERNAL] Request for OCD Document Removal - Big Eddy Unit Federal Exploratory Unit

I'm talking to the clerk now. The easiest thing to do is take them down in the incorrect file. If it's in a/the correct file, I'll need to determine how/why the document was submitted.

Jesse K. Tremaine
Legal Director, Oil Conservation Division
Office of General Counsel
New Mexico Energy, Minerals & Natural Resources Department
1220 South St. Francis Dr., Santa Fe, NM 87505
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E-mail: JesseK.Tremaine@emnrd.nm.gov



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From: Marks, Allison <amarks@nmslo.gov>
Sent: Wednesday, September 9, 2026 3:07 PM
To: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>; Norwood, Aaron A <aaron.norwood@exxonmobil.com>; Hall, Michael, EMNRD <Michael.Hall@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>
Cc: Bassett, Charles <ralph.c.bassett@exxonmobil.com>; Wylie, Jason <jason.wylie@exxonmobil.com>; James Parrot <JParrot@bwenerylaw.com>; amy.vermersch@emnrd.nm.gov
Subject: RE: [EXTERNAL] Request for OCD Document Removal - Big Eddy Unit Federal Exploratory Unit

These docs shouldn't have been filed there. I don't know why this is in this file. I haven't looked at all other areas where this may be included, but it shouldn't be here.

From: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>
Sent: Wednesday, September 9, 2026 3:05 PM
To: Marks, Allison <amarks@nmslo.gov>; Norwood, Aaron A <aaron.norwood@exxonmobil.com>; Hall, Michael, EMNRD <Michael.Hall@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>
Cc: Bassett, Charles <ralph.c.bassett@exxonmobil.com>; Wylie, Jason <jason.wylie@exxonmobil.com>; James Parrot

EXHIBIT A

<JParrot@bwenerylaw.com>; amy.vermersch@emnrd.nm.gov

Subject: RE: [EXTERNAL] Request for OCD Document Removal - Big Eddy Unit Federal Exploratory Unit

The case reopened the Richardson & Bass file from 1952? I see new docs in there, but procedurally I'm at a loss. Aside from the confidentiality concern, is that the right case file?

Jesse K. Tremaine
Legal Director, Oil Conservation Division
Office of General Counsel
New Mexico Energy, Minerals & Natural Resources Department
1220 South St. Francis Dr., Santa Fe, NM 87505
Cell: (505) 231-9312
E-mail: JesseK.Tremaine@emnrd.nm.gov



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From: Marks, Allison <amarks@nmslo.gov>

Sent: Wednesday, September 9, 2026 3:03 PM

To: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>; Norwood, Aaron A <aaron.norwood@exxonmobil.com>; Hall, Michael, EMNRD <Michael.Hall@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>

Cc: Bassett, Charles <ralph.c.bassett@exxonmobil.com>; Wylie, Jason <jason.wylie@exxonmobil.com>; James Parrot <JParrot@bwenerylaw.com>; amy.vermersch@emnrd.nm.gov

Subject: RE: [EXTERNAL] Request for OCD Document Removal - Big Eddy Unit Federal Exploratory Unit

Hi Jesse.

It is just 365. Here's a link: <https://ocdimage.emnrd.nm.gov/Imaging/CaseFileView.aspx?CaseNo=365>

From: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>

Sent: Wednesday, September 9, 2026 2:55 PM

To: Norwood, Aaron A <aaron.norwood@exxonmobil.com>; Hall, Michael, EMNRD <Michael.Hall@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>

Cc: Marks, Allison <amarks@nmslo.gov>; Bassett, Charles <ralph.c.bassett@exxonmobil.com>; Wylie, Jason <jason.wylie@exxonmobil.com>; James Parrot <JParrot@bwenerylaw.com>; amy.vermersch@emnrd.nm.gov

Subject: RE: [EXTERNAL] Request for OCD Document Removal - Big Eddy Unit Federal Exploratory Unit

Hello Aaron,

EXHIBIT A

Could you please provide the case number? It looks to be missing digits in your email. I would expect it to be something like 2365.

Jesse K. Tremaine
Legal Director, Oil Conservation Division
Office of General Counsel
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From: Norwood, Aaron A <aaron.norwood@exxonmobil.com>
Sent: Wednesday, September 9, 2026 2:51 PM
To: Tremaine, Jesse, EMNRD <JesseK.Tremaine@emnrd.nm.gov>; Hall, Michael, EMNRD <Michael.Hall@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>
Cc: Marks, Allison <amarks@nmslo.gov>; Bassett, Charles <ralph.c.bassett@exxonmobil.com>; Wylie, Jason <jason.wylie@exxonmobil.com>; James Parrot <JParrot@bwenergylaw.com>; amy.vermersch@emnrd.nm.gov
Subject: [EXTERNAL] Request for OCD Document Removal - Big Eddy Unit Federal Exploratory Unit

Some people who received this message don't often get email from aaron.norwood@exxonmobil.com. [Learn why this is important](#)

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Jesse, Michael and Brandon,

XTO recently discovered that our confidential 2026 Plan of Development along with a separate presentation covering a 5+ year outlook for our Big Eddy Federal Exploratory Unit was uploaded to OCD's imaging system for public viewing. The Plan of Development, along with the 5+ year outlook were provided under confidentiality to BLM and SLO and should not be made public. Can you please have this removed from the Big Eddy Case (No. 365) file. See link below for the full PDF XTO is requesting to be removed.

https://ocdimage.emnrd.nm.gov/Imaging/FileStore/santafeadmin/cf/20260804/365_08_04_2026_01_35_24.pdf

The 5+ year outlook starts on page 83 of the 127-page document, which includes not for redistribution and confidentiality provision.

EXHIBIT A

Thanks,
Aaron

Aaron Norwood
Area Commercial & Land Manager - Delaware Basin
ExxonMobil - Land Department Loc. 115
22777 Springwoods Village Pkwy
Spring, TX 77389-1425
Office: 346-566-9565
Mobile: 682-220-7518
aaron.norwood@exxonmobil.com

EXHIBIT B

Darn, turns out if you want to front run a drilling program all it takes is looking through public regulatory filings!

ExxonMobil

Big Eddy Federal Unit

Big Eddy Federal Unit

BEU Unit 2

Date: 2/16/2026



Development + 3 Monitor Wells
(Drill, Complete and Equip)

7:26 AM · Sep 10, 2026 · 8,382 Views

13

2

68

48

Relevant ▾

EXHIBIT B

