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

JUL 27 2004

NMOCD - OGA 04-\_\_

OIL CONSERVATION  
DIVISION

**IN THE MATTER OF XTO ENERGY INC.,**

**Respondent.**

**AGREED COMPLIANCE ORDER**

Pursuant to the New Mexico Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, as amended ("Act"), the Director of the Oil Conservation Division ("OCD") and XTO Energy Inc. ("Operator") enter into this Order under which Operator agrees that the wells identified herein shall be brought into compliance with the Act and OCD Rule 201 [19.15.4.201 NMAC] in accordance with the following agreed schedule and procedures, and agrees to pay penalties as set out below if it fails to meet the schedule set out in this Order:

**FINDINGS**

1. The OCD is the state division charged with administration and enforcement of the Act, and rules and orders adopted pursuant to the Act.
2. Operator is a corporation doing business in the state of New Mexico.
3. Operator is the operator of record for the wells identified in Exhibit "A," attached.
4. The wells identified in Exhibit "A":
  - a. have been continuously inactive for a period of one year plus ninety days;
  - b. are not properly plugged and abandoned under OCD Rule 202 [19.15.4.202 NMAC]; and
  - c. have not been placed on temporary abandonment status under OCD Rule 203 [19.15.4.203 NMAC].
5. OCD Rule 201 [19.15.4.201 NMAC] states, in relevant part:
  - "A. The operator of any well drilled for oil, gas or injection; for seismic, core or other exploration, or for a service well, whether cased or uncased, shall be responsible for the plugging thereof.
  - B. A well shall be either properly plugged and abandoned or temporarily abandoned in accordance with these rules within ninety (90) days after:

....  
....  
(3) a period of one (1) year in which a well has been continuously inactive."

6. NMSA 1978, Section 70-2-31(A) authorizes the assessment of civil penalties of up to one thousand dollars per day per violation against any person who knowingly or willfully violates any provision of the Oil and Gas Act or any rule or order adopted pursuant to the Act.
7. OCD Rule 7.P (2) [19.15.1.7.P (2) NMAC] defines "person" as  
"an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees."

### CONCLUSIONS

1. The OCD has jurisdiction over the parties and subject matter in this proceeding.
2. As operator of the wells identified in Exhibit "A," Operator is responsible for bringing those wells into compliance with Rule 201.
3. Operator is a "person" as defined by OCD Rule 7.P(2) subject to civil penalties for knowing and willful violations of the Oil and Gas Act or rules or orders adopted pursuant to the Act.

### ORDER

1. Operator is hereby directed to bring each of the wells identified in Exhibit "A" into compliance with OCD Rule 201 by either:
  - (a) restoring such well to production or other OCD-approved beneficial use by October 31, 2004;
  - (b) causing the wellbore to be plugged in accordance with OCD Rule 202 by October 31, 2004, and causing the site to be remediated in accordance with OCD Rule 202 within one year of plugging the wellbore; or
  - (c) securing OCD approval for temporary abandonment of the well in accordance with OCD Rule 203 by October 31, 2004.
2. Operator shall plug, temporarily abandon or restore to production or other approved beneficial use the wells identified in Exhibit "A" according to the following schedule: 4 wells in May, 2004; 4 wells in June, 2004; 0 wells in July, 2004; 2 wells in August, 2004; 2 wells in September, 2004; and 3 wells in October, 2004. If the Operator plugs, temporarily abandons or restores to

production or other approved beneficial use more than the required number of wells in any month, the wells in excess of the number agreed to herein shall be credited to Operator's obligation hereunder for succeeding months, provided that all of the wells identified in Exhibit "A" shall be plugged, temporarily abandoned or restored to production or other approved beneficial use by October 31, 2004, according to the following schedule (hereinafter "schedule"):

<u>Date:</u>	<u>Total Number of Wells from Exhibit "A" Plugged, Temporarily Abandoned, or Returned to Approved Beneficial Use</u>
last day of May	4
June	8
August	10
September	12
October	15

3. A well shall be considered "plugged" for purposes of the schedule set out in paragraph 2, above, when the Operator has plugged the wellbore in accordance with Rule 202.A and B (1) and (2), and filed a sundry notice with the appropriate district office notifying them that the wellbore has been plugged. The wellsite must be remediated in accordance with Rule 202.B.(3) within one year of plugging the wellbore. Upon completion of the remediation, the Operator must contact the appropriate district office to arrange for an inspection of the well and location.
4. A well shall be considered "temporarily abandoned" for purposes of the schedule set out in paragraph 2, above, when the well has successfully passed the mechanical integrity test required by Rule 203 and the Operator has filed the request for temporary abandonment with the appropriate district office.
5. A well shall be considered "restored to production or other approved beneficial use" for purposes of the schedule set out in Paragraph 2, above, when actual production or other approved beneficial use has commenced.
6. Operator shall file a written compliance report with the appropriate district office, and send a copy to the OCD's attorney, by the 10<sup>th</sup> day of each month starting with June, 2004 listing the wells identified in Exhibit "A" that it has plugged, temporarily abandoned or restored to production or other approved beneficial use. For each well listed, the Operator shall identify each well plugged, temporarily abandoned or restored to production or other approved beneficial use, and the date that work was completed. Operator shall file monthly compliance reports until all wells identified in Exhibit "A" have been plugged, temporarily abandoned or restored to production or other approved beneficial use. If, at any time, the OCD determines that a well identified in the Operator's compliance report is not

plugged, temporarily abandoned or restored to production or other approved beneficial use according to the definitions set out in this agreement, the OCD shall promptly notify the Operator, and those wells shall not be credited toward the Operator's obligations under this Order until they are plugged, temporarily abandoned or restored to production or other approved beneficial use as defined in this agreement.

7. If, at the end of any month, the total number of wells the Operator has plugged, temporarily abandoned or restored to production or other beneficial use is less than the number required under the schedule, Operator shall have a one-month grace period in which to become current. If, at the end of that one-month grace period, Operator has not become current under the schedule, Operator shall pay a penalty of \$1000 times the number of wells it is short of the total required for the current month. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the appropriate district office with the next month's report. Penalties are calculated, and payable, each month.

Example A: ABC Company's agreed compliance order requires it to plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 6 wells each month. ABC Company meets or exceeds its obligations in months 1-4. The agreed schedule calls for a total of 30 wells to be plugged, temporarily abandoned or restored to production or other approved beneficial use by the end of month 5. But at the end of month 5, ABC Company is two wells behind schedule. ABC Company will have a one-month grace period in which to become current. At the end of month 6, however, ABC Company has plugged, temporarily abandoned or restored to production or other approved beneficial use a total of 35 wells: one well short of the 36 required by the schedule. ABC Company must pay a penalty of \$1000 when it files its report for month 6. At the end of month 7, ABC Company is 4 wells short of the 42 required by the schedule. ABC Company must pay a penalty of \$4000 when it files its report for month 7.

Example B: XYZ Company's agreed compliance order requires it to plug, temporarily abandon or restore to production or other approved beneficial use a minimum of 5 wells each month. XYZ Company files compliance reports each month indicating that it is meeting its agreed schedule. In month 3, the OCD inspects the site of one of the wells listed as "plugged" in XYZ Company's compliance report for month 1, and determines that the wellbore has not been properly plugged under Rule 202.B(2) because the marker has not been placed on the site. Because the well has not been properly "plugged" as defined by this agreement, it will not count towards fulfilling XYZ Company's obligations under the schedule. XYZ Company will be responsible for calculating, and paying, any additional penalties that apply.

8. If Operator fails to plug, temporarily abandon or restore to production or other approved beneficial use all the wells identified in Exhibit "A" by October 31, 2004, Operator shall pay a penalty of \$2000 per well for each full month the well remains out of compliance with this order after that date. No grace period applies. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the appropriate district office with the next month's report. Penalties are calculated, and payable, each month.
9. For each plugged well, if the Operator fails to remediate the site and request inspection by the appropriate district office within one year of plugging the wellbore, the Operator shall pay a penalty of \$1000 for each full month that the well remains out of compliance with the remediation requirements of Rule 202.B(3). No grace period applies. Payment shall be made by certified or cashier's check made payable to the "New Mexico Oil Conservation Division," and mailed or hand-delivered to the appropriate district office. Penalties are calculated, and payable, each month.
10. By signing this Order, Operator expressly:
  - (a) acknowledges the correctness of the Findings and Conclusions set forth in this Order;
  - (b) agrees to plug, temporarily abandon or restore to production or other approved beneficial use the wells identified in Exhibit "A" under the schedule set out in Ordering Paragraph (2), and remediate plugged wells within one year of plugging the wellbore as set out in Ordering Paragraph (3);
  - (c) agrees to file monthly compliance reports as required in Ordering Paragraph (6);
  - (d) agrees to pay penalties as set out in Ordering Paragraphs (7), (8) and (9) if it fails to meet the schedule set out in Ordering Paragraph (2) and the remediation requirements set out in Ordering Paragraph (3);
  - (e) waives any right, pursuant to the Oil and Gas Act or otherwise, to a hearing either prior or subsequent to the entry of this Order or to an appeal from this Order; and
  - (f) agrees that the Order may be enforced by Division or Oil Conservation Commission Order, by suit or otherwise to the same extent and with the same effect as a final Order of the Division entered after notice and hearing in accordance with all terms and provisions of the Oil and Gas Act.
11. This Order applies only to those wells identified in Exhibit "A." Other wells operated by Operator out of compliance with Rule 201 may be subject to immediate enforcement action under the Oil and Gas Act.

Done at Santa Fe, New Mexico this 2nd day of Aug., 2004

By: Mark E. Fesmire

Mark Fesmire

Director, Oil Conservation Division

**ACCEPTANCE**

XTO Energy Inc. hereby accepts the foregoing Order, and agrees to all of the terms and provisions set forth in that Order.

**XTO Energy Inc.**

By: Ed L. Craddock

Title: VP Operations

Date: 7-19-04

[Operator] Agreed Compliance Order Well List:

Signed: D. L. Craddock 7-19-04  
[Operator]

EXHIBIT "A"

EXHIBIT "A" XTO ENERGY INC. WELL LIST

30-045-06369	G	01-1994	ALICE BOLACK #002	XTO ENERGYI-21-27N-11W I	1650S	990E	
30-045-06739	G	07-1983	ALICE BOLACK #007	XTO ENERGYA-09-27N-11W A	990N	990E	
30-045-23031	G	10-2001	BOLACK J #001	XTO ENERGYJ-28-27N-11W J	1450S	1450E	*16M
30-045-25559	G	06-2002	BRUINGTON GAS COM C #001E	XTO ENERGYD-21-30N-11W D	825N	1050W	*16M
30-045-06125	G	04-2002	CUCCIA COM LS #001	XTO ENERGYI-32-27N-08W I	1700S	800E	*16M
30-045-06313	G	09-2002	FLORANCE D LS #007	XTO ENERGYO-19-27N-08W O	900S	1850E	*16M
30-045-30825	G	09-2002	FULLERTON FEDERAL 27 11 #01	XTO ENERGYM-14-27N-11W M	1025S	685W	*16M
30-045-07921	G	07-2002	LEFKOVITZ GAS COM #001X	XTO ENERGYA-25-29N-10W A	790N	805E	*16M
30-045-06240	G	11-2002	SCHWERDTFEGER #006	XTO ENERGYK-28-27N-11W K	1650S	1650W	*16M
30-045-06746	G	07-2002	SCHWERDTFEGER #007	XTO ENERGYA-08-27N-11W A	990N	990E	*16M
30-045-06502	G	06-1999	SCHWERDTFEGER #012	XTO ENERGYK-16-27N-11W K	1650S	1650W	*16M
30-045-30964	G	09-2002	SCOTT FEDERAL 27 11 #036	XTO ENERGYF-36-27N-11W F	1700N	1350W	*16M
30-045-21288	G	05-2002	STOREY B LS #007	XTO ENERGY7-05-30N-11W K	1790S	1815W	*16M
30-045-22949	G	09-2002	UTE MOUNTAIN TRIBAL L #002	XTO ENERGYM-24-32N-14W M	1040S	810W	*16M
30-045-20942	G	09-2002	UTE MTN TRIBAL D #003	XTO ENERGYF-10-31N-14W F	1530N	1980W	*16M

sign *Del L. Craddock* 7-19-04  
XTO ENERGY INC.