

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:) CASE NO. 12,827
)
APPLICATION OF XTO ENERGY, INC., FOR)
APPROVAL OF SURFACE COMMINGLING, SAN)
JUAN COUNTY, NEW MEXICO)

ORIGINAL
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RECORDED & INDEXED

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

April 4th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday, April 4th, 2002, 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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April 4th, 2002
 Examiner Hearing
 CASE NO. 12,827

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A P P E A R A N C E S

FOR THE DIVISION:

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FOR THE APPLICANT:

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ALSO PRESENT:

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Hearing Examiner
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

WILL JONES
Engineer
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Santa Fe, NM 87501

* * *

1 WHEREUPON, the following proceedings were had at
2 8:19 a.m.:

3 EXAMINER STOGNER: This hearing will come to
4 order. Please note today's date, April 4th, 2002, Docket
5 Number 10-02.

6 At this time I will call Case Number 12,827,
7 which is the Application of XTO Energy, Inc., for approval
8 of surface commingling, San Juan County, New Mexico.

9 Call for appearances.

10 MR. BRUCE: Mr. Examiner, Jim Bruce of Santa Fe,
11 representing the Applicant. I have two witnesses.

12 EXAMINER STOGNER: Any other appearances?

13 Will the witnesses please stand to be sworn?

14 (Thereupon, the witnesses were sworn.)

15 EXAMINER STOGNER: Mr. Bruce, I understand this
16 case has been heard?

17 MR. BRUCE: Yes, Mr. Examiner, this case was
18 heard on March 7th before Examiner Catanach. Mr. Martin,
19 our first engineer, presented testimony regarding the
20 surface commingling itself.

21 One surface owner, Fred Armenta, showed up and
22 objected. The hearing was continued for four meetings to
23 allow the parties to meet and discuss this matter.

24 At this time I have witnesses who will discuss
25 the meeting that took place between Mr. Armenta and XTO, as

1 well as certain other contacts. Mr. Armenta, in effect,
2 made the statement that XTO would never meet with him or
3 discuss these matters with him, and I'd like to clear the
4 record on that issue.

5 EXAMINER STOGNER: Okay, please note that Mr.
6 Catanach, the Hearing Examiner, is in the room today --

7 MR. BRUCE: Okay.

8 EXAMINER STOGNER: -- so you may proceed.

9 MR. BRUCE: My first witness --

10 RAY MARTIN,
11 the witness herein, after having been first duly sworn upon
12 his oath, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BRUCE:

15 Q. Would you please state your name?

16 A. Ray Martin.

17 Q. And do you work for XTO Energy?

18 A. Yeah, I work for XTO Energy in Farmington.

19 Q. And what is your job there?

20 A. Operations engineer.

21 Q. And at the prior hearing were you qualified as an
22 expert operations engineer?

23 A. Yes, I was.

24 MR. BRUCE: And if the record would so reflect,
25 Mr. Examiner.

1 EXAMINER STOGNER: So reflect.

2 Before you get started, there's a gentleman that
3 just entered the room. We have only one case today, this
4 is 12,827. Are you a party to that?

5 FROM THE FLOOR: No, sir.

6 EXAMINER STOGNER: And which one are you here
7 for?

8 FROM THE FLOOR: Well, I was hoping to be a
9 witness to what's happening with EnerQuest.

10 EXAMINER STOGNER: Ah, EnerQuest has been
11 continued to April the 18th.

12 FROM THE FLOOR: Okay, thank you very much.

13 EXAMINER STOGNER: Sorry about that.

14 MR. BRUCE: Sir, but it will probably not be
15 heard on the 18th. You'd better check with -- like Mr.
16 Carr --

17 EXAMINER STOGNER: Tell you what, let's go off
18 the record here for a sec.

19 (Off the record)

20 EXAMINER STOGNER: Okay, let's go back on the
21 record.

22 Q. (By Mr. Bruce) Mr. Martin, at the hearing four
23 weeks ago, Mr. Catanach asked that you coordinate a meeting
24 with Mr. Armenta. Could you describe when that meeting was
25 held, who was present and what happened?

1 A. Yes, we set up a meeting with Mr. Armenta on the
2 morning of March 14th, and Mr. Armenta, his wife, Charlie
3 Perrin of the OCD, Terry Matthews our production
4 superintendent, and Tim Welch from our land department in
5 our Fort Worth office were at the meeting.

6 Q. As well as you?

7 A. As well as me. And another person was there. I
8 believe she was -- we think she was with Mr. Armenta but
9 was just there to listen. We did not get her name.

10 Q. Did she state that she was with someone?

11 A. My understanding from the secretaries when she
12 came in, she stated she was with the OCD.

13 Q. But she was not from the OCD?

14 A. As far as we could tell. Probably just one of
15 the surface owners he knew, he just wanted to have an extra
16 set of ears. We didn't mind. He wanted to have --

17 Q. You just didn't know who it was?

18 A. Right, we had already started, she'd walked in,
19 and I assumed it was his daughter to give him -- drove him
20 up there or something. And then she took off before we got
21 through talking, so I didn't get her name.

22 Q. Okay.

23 A. But at the meeting I had made an overhead of what
24 I believe was the original Exhibit 2, the schematic of the
25 battery, and went through, you know, the entire battery,

1 how the gas was flowing, how we measured it, to try to give
2 him an understanding of how the surface commingling worked
3 as far as setting a single compressor being advantageous to
4 both wells, you know, showing -- or telling him what we
5 believe that the compressor will increase the rate of the
6 existing well and --

7 Q. Which is the Mesaverde well?

8 A. Which is the Mesaverde well. And the new well,
9 when it comes on, one compressor versus two, using less
10 fuel and --

11 Q. Less surface use?

12 A. Less surface use, and one compressor versus
13 setting two, you know, being just cheaper to operate, and
14 therefore the economic limit of the wells would be lower so
15 you can maximize your gas production. And just tried to go
16 through it with him, talked about how the allocation would
17 work, one well would be measured, the other well would work
18 off the difference of fuel being allocated between them and
19 just made a presentation to him.

20 He had several questions. Again, I just -- He's
21 very skeptical of commingling or anything that isn't very
22 straightforward, is the impression I got.

23 But at the end of the day Charlie asked him --

24 Q. Charlie Perrin?

25 A. Charlie Perrin. -- you know, do you see the

1 major benefits?

2 And he says, Well, I think I understand it but
3 I'm not sure.

4 And he just -- again, his statements that I just
5 don't trust surface -- or any kind of commingling,
6 downhole, surface.

7 But I think we did as good a job as we could to
8 explain it to him. And he picked up some things, I know,
9 you know.

10 Q. How long did the meeting last, approximately?

11 A. Oh, probably two and a half hours.

12 Q. Okay. Now, when you're looking at these wells,
13 one is a Mesaverde well. That's the older well, right?

14 A. Correct.

15 Q. And the new well is the Fruitland Coal well?

16 A. Correct.

17 Q. Which well do you anticipate greater volumes of
18 production from?

19 A. The new well.

20 Q. The Fruitland Coal well?

21 A. Yes.

22 Q. Okay. Have you heard from him since the meeting?

23 A. No, I have not talked to him since the meeting.

24 The only contact we've had is, our production

25 superintendent called him to let him know that we were

1 going to do some work out on the location. But I have not
2 talked to him since the meeting.

3 Q. Okay, and he hasn't called you?

4 A. He has not called me.

5 Q. And you left him your phone number?

6 A. Yes. I called him two times before the meeting
7 to set up the meeting, make sure he was coming. He had my
8 name, number, everything.

9 MR. BRUCE: Okay. That's all I have of this
10 witness, Mr. Examiner, if you or Mr. Catanach have any
11 questions.

12 EXAMINER STOGNER: Mr. Catanach?

13 EXAMINATION

14 BY MR. CATANACH:

15 Q. Mr. Martin, did you seem to satisfy his concerns
16 at the meeting?

17 A. I think so. I think his main concern is, he just
18 isn't certain that he is going to see any real benefit as
19 far as, you know, the royal- -- you know, he's just -- his
20 concerned, I think, is gas and royalty. And, you know, I
21 just don't know if he believes he'll see a -- this will
22 help him, versus two compressors and keeping it separate.

23 I just -- you know, I'm certain the compressor
24 will work. We have evidence on the existing well that it
25 has worked. We went ahead and set the compressor out there

1 just to go ahead and test the existing well, and it's
2 increased the production of the well significantly. And
3 the other well is just shut in, waiting till we get
4 permission to commingle.

5 Q. Now, provided that both of these gas streams from
6 these wells are accurately metered, there shouldn't be any
7 harm to Mr. Armenta's interest in these wells?

8 A. I cannot imagine any harm. I see only benefit, I
9 see increased production.

10 Q. And that benefit is longer production for both of
11 the wells, lower economic limit?

12 A. Uh-huh, and higher production initially, versus
13 trying to buck full line pressure.

14 MR. CATANACH: Okay, I have no further questions,
15 Mr. Examiner. But I would note that Mr. Armenta was at the
16 last hearing, and he was aware that this case was going to
17 be continued to this date, and Mr. Armenta has apparently
18 chosen not to show up today. I don't know that that means
19 he has withdrawn his objection.

20 In fact, I did receive a letter from him either
21 yesterday or the day before, and I have not read that
22 letter. But I believe that he probably still has some
23 concerns, which we will take into consideration when we
24 issue an order in this.

25 MR. BROOKS: Did he copy you on that letter, Mr.

1 Bruce?

2 MR. BRUCE: I have not seen the letter, Mr.
3 Brooks.

4 MR. BROOKS: Okay, we'll furnish you a copy of
5 it.

6 THE WITNESS: I mean -- add in -- at the meeting
7 I had given him a -- what you'd asked him at the meeting,
8 Mr. Catanach, was to, after the meeting, please send me a
9 letter saying XTO had met with me and I either continue to
10 object or I don't object. And I had given him a letter
11 with, "Met with Cross Timbers today", and then a box below,
12 "I still object/I don't object", just to check, and an
13 addressed, stamped envelope where he could mail that back.

14 So I don't know if he received it, but we did
15 provide him just a simple check letter.

16 MR. CATANACH: Also, Mr. Examiner -- and I
17 apologize for not bringing that, I do have that letter from
18 Mr. Armenta -- and also after the meeting that you had with
19 Mr. Armenta, I did get a summary of the meeting, I believe
20 from Mr. Perrin in our Aztec Office, who summarized how the
21 meeting went and what was said and the various things.

22 So with your permission, I'd like to enter both
23 of those letters into the record in this case, although I
24 failed to bring them with me.

25 EXAMINER STOGNER: Mr. Catanach, do you have that

1 letter up in your office?

2 MR. CATANACH: I do.

3 EXAMINER STOGNER: Why don't we take about a
4 five, ten-minute recess and go get the letter and make some
5 copies of it?

6 (Off the record)

7 EXAMINER STOGNER: We're in recess.

8 (Thereupon, a recess was taken at 8:30 a.m.)

9 (The following proceedings had at 8:41 a.m.)

10 EXAMINER STOGNER: Okay, let's go back on the
11 record.

12 I've had handed to me, please note for the
13 record, a letter received by the OCD marked April 3rd,
14 2002, and the letter is dated March 25th from Mr. Fred G.
15 Armenta.

16 And also for the record, there is a letter on
17 file dated March 13th which is, as I understand it, a
18 summary from Charlie Perrin; is that right, Mr. Catanach?

19 MR. CATANACH: That's correct, Mr. Examiner.

20 EXAMINER STOGNER: Okay, and these two items I'm
21 going to make a part of the record at this time.

22 Have you reviewed it, Mr. Bruce?

23 MR. BRUCE: I've reviewed it, and I might have or
24 next witness just comment on a couple of things.

25 EXAMINER STOGNER: Okay. Mr. Catanach, is there

1 anything further you'd like to state about this letter?

2 MR. CATANACH: No, sir.

3 EXAMINER STOGNER: Okay, thank you for providing
4 this and the copies, Mr. Catanach. Your help is most
5 appreciated.

6 Any other questions of this witness?

7 MR. BRUCE: I just have one.

8 FURTHER EXAMINATION

9 BY MR. BRUCE:

10 Q. Mr. Martin, you were talking about -- The
11 Mesaverde well, the older well, was producing at what?
12 About 40 MCF a day?

13 A. 40 MCF a day.

14 Q. And you did set the compressor, and what,
15 approximately, did it increase production to?

16 A. It's making 75 a day right now.

17 Q. Okay. What type of production do you expect from
18 the Fruitland Coal if this is similar to other XTO
19 Fruitland Coal wells in this area?

20 A. I believe on the regional exhibit I think we
21 showed it -- estimated half a million a day once it gets
22 dewatered. I would think that's -- it would make that.
23 We've seen a little better on a couple other wells, so we
24 could even creep up a little higher, it could even be 700.

25 Q. But 500 MCF a day would be a reasonable rate?

1 A. Right, it should, once it gets dewatered.

2 MR. BRUCE: Okay, thank you. I have nothing
3 further, Mr. Examiner.

4 EXAMINER STOGNER: Okay, no other questions.
5 Thank you, Mr. Martin, you may be excused.

6 Mr. Bruce?

7 MR. BRUCE: Call Mr. Welch to the stand.

8 TIM WELCH,

9 the witness herein, after having been first duly sworn upon
10 his oath, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. BRUCE:

13 Q. Would you please state your name and city of
14 residence for the record?

15 A. My name is Tim Welch, and I live in Fort Worth,
16 Texas.

17 Q. Who do you work for and in what capacity?

18 A. XTO Energy, Inc., as a petroleum landman.

19 Q. Have you previously testified before the Division
20 as a petroleum landman?

21 A. Yes, I have.

22 Q. And were your credentials as an expert landman
23 accepted as a matter of record?

24 A. Yes, they were.

25 Q. And are you familiar with the land matters

1 involved in this particular -- with these wells involved in
2 this Application?

3 A. Yes, I am.

4 MR. BRUCE: Mr. Examiner, I'd tender Mr. Welch as
5 an expert petroleum landman.

6 EXAMINER STOGNER: No objection.

7 Q. (By Mr. Bruce) Mr. Welch, at the original
8 hearing Mr. Armenta -- and I forget how he phrased it
9 exactly, but I think he specifically blamed you for not
10 showing up in January to meet with him, but he also
11 indicated that XTO wouldn't meet with him very often or
12 contact him very often. Could you comment on that for the
13 record?

14 A. Yes, sir, we've -- beginning on or about April
15 the 23rd of 2001, we first were in contact with Armenta,
16 either through our people that work in Farmington or
17 through Julie King, who is a contract land agent that works
18 for me and works on surface-damage issues such as this in
19 the San Juan Basin.

20 In looking through our notes collectively, it
21 appears that since April the 23rd, up until present, that
22 we've had well over 20 contacts, either by phone or by
23 person or by mail, with Mr. Armenta.

24 Q. And have most of these been related to the
25 surface-damage issue, surface-use issue?

1 A. Virtually all of it has been related to the
2 surface-damage issue concerning the pad that was built
3 relative to the Fruitland Coal well that we just drilled.

4 Q. Has it been difficult to come to agreement with
5 Mr. Armenta?

6 A. Yes, sir, it has, and we have -- as we do with
7 everybody, we go out of our way to try to have good
8 relations with all the surface owners and have these issues
9 taken care of before we drill the well. In this case we
10 simply had run out of time, and while we indicated to Mr.
11 Armenta that we were so far apart in terms of a settlement
12 with regard to surface damages, that we were going to have
13 to go ahead and drill the well, that we would continue to
14 work with him and bend over backwards to try to work out a
15 reasonable and equitable agreement with him.

16 And while we're certainly regretful that we don't
17 have one at this time, it is certainly not the reason that
18 it has been a lack of access or a lack of our desire to
19 meet with Mr. Armenta. We understand that reasonable
20 people can disagree, but in the case the lack of agreement,
21 I guess is what I'm trying to say, has not been because
22 we've been inaccessible or have not had enough meetings.

23 Q. Okay, you attended that March 14th meeting, did
24 you not?

25 A. Yes, I did.

1 Q. Were many of the questions or issues raised by
2 Mr. Armenta related to surface use rather than commingling?

3 A. Yes, sir, it would be my estimation that either
4 with Mr. Armenta or his wife, that in the final analysis
5 probably at least half of the questions ended up going back
6 to the surface-use issue concerning the drilling of this
7 Fruitland Coal well.

8 Q. Okay, and this is fee surface, is it not?

9 A. Yes, sir, where the location is, it is, yes, sir.

10 Q. Okay. One other question. There are these two
11 wells involved, one is a Mesaverde and one is the Fruitland
12 Coal. Could you briefly set forth Mr. Armenta's royalty or
13 interest in production in each of those wells?

14 A. Yes, sir, in the Armenta Gas Com C Number 1 A,
15 which is the Mesaverde well -- that's a north-half unit --
16 he owns approximately 1.05 percent royalty interest in that
17 unit. And in the Fruitland Coal well, the Armenta Gas Com
18 G Number 1, which is an east-half Fruitland Coal unit, he
19 has approximately 1.74-percent royalty interest.

20 Q. Okay, so he has a greater interest in the well
21 that will probably produce more gas?

22 A. That is true.

23 Q. Okay.

24 A. One other thing too, with regard to the comment
25 by Mr. Armenta about my refusal to meet with him in

1 January. What had happened in that case is that I had
2 represented to him that I would meet with him during my
3 first trip to Farmington, which I anticipated to be in the
4 month of January. And because of the workload and other
5 issues that were involved, I did not get to come out in
6 January. However, my first trip I did meet with him.

7 Q. Okay.

8 A. It just was not in January.

9 Q. You weren't trying to avoid him, you just
10 couldn't get away from Fort Worth?

11 A. Yes, sir. And in the meantime there was --
12 everybody in Farmington was completely accessible to Mr.
13 Armenta at that time if he needed to speak with someone.

14 MR. BRUCE: Okay, thank you. I pass the witness,
15 Mr. Examiner.

16 EXAMINER STOGNER: Thank you.

17 Mr. Catanach?

18 EXAMINER CATANACH: I have no questions, Mr.
19 Examiner.

20 EXAMINATION

21 BY EXAMINER STOGNER:

22 Q. Mr. Welch, as I understand it, are there at least
23 two other, or are there more wells on his property?
24 According to one of the drawings here it looks like there
25 are two Burlington wells sort of embedded between the two

1 XTO wells.

2 A. Correct.

3 MR. BRUCE: So yeah, there are -- Mr. Martin
4 informed me there are four other wells, Mr. Examiner.

5 MR. MARTIN: Total.

6 MR. BRUCE: Or four wells total on this
7 particular piece of property, excuse me. And that would
8 show up on Exhibit 2.

9 Q. (By Examiner Stogner) Mr. Welch, at that meeting
10 did you get -- did Mr. Armenta make any indication to you
11 that other companies or XTO had reduced production because
12 of the compressions, or was it the other issues on safety
13 that he commented on?

14 A. All of the above.

15 Q. And does XTO have any other wells on his
16 property, other than these two?

17 A. I would have to defer to Mr. Martin.

18 EXAMINER STOGNER: Okay. Mr. Martin, do you know
19 the answer to that question?

20 MR. MARTIN: I believe the Romero A 1A, the well
21 that he mentioned in the first hearing, that Amoco had
22 downhole commingled, and he hadn't seen a big increase, is
23 one that he had kind of related this downhole commingling
24 to our surface. The Romero well is on his land, and we
25 have a -- the other Romero well, I believe, is just off his

1 land.

2 So I believe he has these two and one other of
3 ours. He's got two Burlington -- I'm not sure how his
4 property line goes, but there may be one other -- another
5 company's well. That's what I remember.

6 EXAMINER STOGNER: All right, I have no other
7 questions of Mr. Welch.

8 I'm sorry, Mr. Catanach?

9 MR. CATANACH: Just one.

10 RAY MARTIN,
11 the witness herein, having been previously duly sworn upon
12 his oath, was examined and testified as follows:

13 EXAMINATION

14 BY MR. CATANACH:

15 Q. That reminded me, Mr. Martin, at the first
16 hearing Mr. Armenta did testify that from the Romero well
17 he had noticed a significant drop in revenue as far as his
18 royalty interest from that well goes. Was that looked into
19 at all?

20 A. I pulled the decline curve on the well, and I see
21 no radical change in production since we got it. It was
22 downhole commingled back when Amoco had it. I do have a
23 decline curve here, but I wouldn't see why he would see a
24 huge decrease, other than the variance in gas price.
25 There's no radical change in production other than a normal

1 decline.

2 Q. As far as you know, he's being paid correctly for
3 his interest in that well?

4 A. Yes, sir, as far as I know.

5 MR. CATANACH: Okay.

6 EXAMINER STOGNER: If there's no other question
7 of Mr. Welch or Mr. Martin, you may be excused. Anything
8 else further, Mr. Bruce?

9 MR. BRUCE: No, sir.

10 EXAMINER STOGNER: If there's nothing else
11 further in this matter, then this case will be taken under
12 advisement.

13 And just for the record, Mr. Catanach is here
14 today because he heard the case originally.

15 And to my right is Mr. Jones. He's going to be a
16 new Hearing Examiner. We didn't come in force to take on
17 your two witnesses, just want to put that on the record.

18 MR. BRUCE: Sure.

19 EXAMINER STOGNER: So don't think anything of
20 that.

21 With that, this case will be taken under
22 advisement, and this hearing is adjourned.

23 (Thereupon, these proceedings were concluded at
24 8:52 a.m.)

25

[Handwritten signatures and notes]
12827
~~2000~~ 2002
STEPHEN T. BRENNER, CCR
Oil Conservator (505) 989-9317

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 April 9th, 2002.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 2002