

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 CASE NOS. 20081,  
COMPULSORY POOLING, EDDY COUNTY, NEW 20082  
MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 15, 2018

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
KEITH W. HERRMANN, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, and Keith W. Herrmann, Legal Examiner, on Thursday, November 15, 2018, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Third Floor Meeting Room, Santa Fe, New Mexico.

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APPEARANCES

FOR APPLICANT XTO ENERGY, INC.:

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(8:41 a.m.)

1 EXAMINER McMILLAN: Okay. Next case we're  
2 going to hear is Case Number 20081, application of XTO  
3 Energy, Incorporated for compulsory pooling, Eddy  
4 County, New Mexico.

5 Is this case combined with 20082?

6 MS. KESSLER: It is.

7 EXAMINER McMILLAN: Okay. And Case Number  
8 20082 is application of XTO Energy for compulsory  
9 pooling, Eddy County, New Mexico.

10 Please proceed.

11 MS. KESSLER: Mr. Examiner, Jordan Kessler  
12 from the Santa Fe office of Holland & Hart, and I have  
13 two witnesses today.

14 EXAMINER McMILLAN: Okay. If the witnesses  
15 will please stand up and be sworn in at this time.

16 (Mr. Hilger and Mr. Henthorn sworn.)

17 MS. KESSLER: May I proceed, Mr. Examiner?

18 EXAMINER McMILLAN: Yes.

19 KENNETH HILGER,  
20 after having been first duly sworn under oath, was  
21 questioned and testified as follows:  
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DIRECT EXAMINATION

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BY MS. KESSLER:

**Q. Will you please state your name for the record and tell the examiners by whom you're employed and in what capacity?**

A. My name is Ken Hilger, and I'm employed as a division landman for XTO, working the Delaware Basin in southeast New Mexico.

**Q. Have you previously testified before the Division?**

A. I have.

**Q. Were your credentials as an expert in petroleum land matters accepted and made a matter of record?**

A. They were.

**Q. Are you familiar with the applications filed in these consolidated cases?**

A. I am.

**Q. And are you familiar with the status of the lands in the area?**

A. I am.

MS. KESSLER: Mr. Examiner, I would tender Mr. Hilger as an expert in petroleum land matters.

EXAMINER McMILLAN: So qualified.

Proceed.

**Q. (BY MR. KESSLER) Mr. Hilger, please explain**

1     **what XTO seeks in this hearing.**

2             A.     To compulsory pool the Bone Spring Formation.

3             **Q.     And would that be underlying two horizontal**  
4     **spacing units?**

5             A.     Correct.

6             **Q.     And would one of those spacing units be**  
7     **comprised of the east half-east half of Sections 10 and**  
8     **15?**

9             A.     They would.

10            **Q.     And the other is the west half-southeast**  
11     **quarter and west half-east half of 10 and 15; is that**  
12     **correct?**

13            A.     Correct.

14            **Q.     Township 25 South, Range 29 East in Eddy**  
15     **County?**

16            A.     Correct.

17            **Q.     What is Exhibit 1?**

18            A.     Exhibit 1 are the C-102 plats that we submitted  
19     to show the area within which the wells will be drilled.

20            **Q.     Okay. And have these C-102s been submitted but**  
21     **not yet approved?**

22            A.     Correct.

23            **Q.     Do they reflect the pool and pool code for each**  
24     **of the two wells?**

25            A.     They do. And it's the Bone Spring.

1 Q. And the first page of this exhibit is the C-102  
2 for the Corral Canyon 10-15, #12H well; is that correct?

3 A. That's correct.

4 And the second is for the 220H.

5 Q. What is the pool code for each of these two  
6 C-102s? Would that be 96217?

7 A. Yes, correct.

8 Q. And is this pool governed by Division statewide  
9 rules for oil wells?

10 A. Yes, it is.

11 Q. Will the completed interval for each of the two  
12 wells comply with Division setback requirements?

13 A. They will.

14 Q. Are these portions of Sections 10 and 15 all  
15 federal lands?

16 A. Yes, they are.

17 Q. And are there any depth severances in this  
18 pool?

19 A. No.

20 Q. Let's look at Exhibit 2. Is this an ownership  
21 tabulation identifying XTO's ownership in the spacing  
22 unit for the 12H well?

23 A. It is.

24 Q. If I look at page 2, is this an ownership  
25 breakdown by tract?

1           A.    Yes, it is.  Yes.

2           Q.    And have you bolded the parties that you seek  
3   to pool?

4           A.    I have.

5           Q.    What type of owners are these?

6           A.    These are working interest owners.

7           Q.    All working interest owners?

8           A.    They're all working interest owners.

9           Q.    And does the next page of the exhibit show the  
10   overriding royalty interest owners that you seek to  
11   pool?

12          A.    It does.

13          Q.    Turning to Exhibit 3, is this an ownership  
14   tabulation for the spacing unit for the 220H well?

15          A.    It is.

16          Q.    Again, if I turn to the second page of this  
17   exhibit, does this show the interest owners that you  
18   seek to pool highlighted in bold?

19          A.    It does.  And these are all working interest  
20   owners.

21          Q.    Okay.  And, again, the next page of the exhibit  
22   shows the overriding royalty interests owners that you  
23   seek to pool?

24          A.    Correct.

25          Q.    Is Exhibit 4 a copy of one of the well-proposal

1 letters that was sent to all working interest owners for  
2 the 12H well?

3 A. Yes, it is.

4 Q. When was this letter sent?

5 A. On September the 7th of this year.

6 Q. Did that also include an AFE?

7 A. It did.

8 Q. That's included as the second and third pages  
9 of this exhibit; is that correct?

10 A. Correct.

11 Q. If I turn to Exhibit 5, is this a copy of the  
12 well-proposal letter sent for the 220H well?

13 A. Yes, it is.

14 Q. This was sent to all of the working interest  
15 owners?

16 A. To them all.

17 Q. And on September 7th?

18 A. Correct.

19 Q. Did this also include an AFE?

20 A. It did as well.

21 Q. Are the costs on the two AFEs consistent with  
22 what XTO and other operators in the area incur for  
23 drilling similar horizontal Bone Spring wells in the  
24 area?

25 A. Yes, they are.

1           **Q.    What overhead and drilling rates are you**  
2 **estimating?**

3           **A.    We had submitted a request for 8,500 on a drill**  
4 **well and 850 on a producing well rate.**

5           **Q.    Do you understand that the Division has been**  
6 **consistently awarding 8,000 per month for drilling and**  
7 **800 a month while producing?**

8           **A.    I understand that.**

9           **Q.    Is that what you're requesting today?**

10          **A.    Yes, it is.**

11                   EXAMINER McMILLAN:   I'm not clear on that,  
12 so finish and I'll ask.

13          **Q.    (BY MS. KESSLER) Do you ask that those costs be**  
14 **incorporated into any order resulting from this hearing?**

15          **A.    Yes, we do.**

16          **Q.    Do you ask that they be periodically adjusted**  
17 **in accordance with the COPAS accounting procedures?**

18          **A.    Yes, we do.**

19          **Q.    With respect to any of the uncommitted interest**  
20 **owners, do you request that the Division impose a 200**  
21 **percent risk penalty?**

22          **A.    Yes, we do.**

23          **Q.    In addition to sending out your well-proposal**  
24 **letters, what other efforts did you undertake to reach**  
25 **an agreement with the parties you're seeking to pool?**

1           A.    Personal phone calls with each of the owners to  
2 discuss what their position would be to participate in  
3 our proposals.  And there were some reservations with  
4 some of the owners, and that's fine.  To the extent we  
5 can work with them after the fact, we will.

6           **Q.    Were there any unlocatable working interest**  
7 **owners?**

8           A.    No, there were not.

9           **Q.    But you did publish notice out of an abundance**  
10 **of caution; is that right?**

11          A.    Yes, we did.

12          **Q.    Does Exhibit 6 include those two Affidavits of**  
13 **Publication?**

14          A.    Yes, it does.

15          **Q.    And is Exhibit 7 an affidavit with attached**  
16 **letters prepared by my office providing the parties that**  
17 **you seek to pool notice of this hearing?**

18          A.    Yes, it is.

19          **Q.    Were Exhibits 1 through 5 prepared by you or**  
20 **under your direction and supervision?**

21          A.    Yes.

22                       MS. KESSLER:  Mr. Examiner, I'd move  
23 admission of Exhibits 1 through 7, which include our  
24 notice affidavits.

25                       EXAMINER McMILLAN:  Exhibits 1 through 7

1 may now be accepted as part of the record.

2 (XTO Energy, Inc. Exhibit Numbers 1 through  
3 7 are offered and admitted into  
4 evidence.)

5 MS. KESSLER: I pass the witness.

6 CROSS-EXAMINATION

7 BY EXAMINER McMILLAN:

8 **Q. I wasn't clear when you were talking about your**  
9 **costs. Are you asking for 8,500 and 850 or 8,000 and**  
10 **800?**

11 A. Well, the costs were originally determined at  
12 8,500 based on the way we see industry going and in the  
13 costs that are going to be associated with these longer  
14 lateral wells. And to the extent that that's  
15 unacceptable to the Division, we're willing to work with  
16 the Division on what would be acceptable, and 8,000  
17 would be if that's where the Division takes us.

18 **Q. Okay. Does the 12H have an API of 45428?**

19 A. I'd have to look and see. That might be right.  
20 I'm not sure.

21 **Q. Okay.**

22 EXAMINER McMILLAN: Well, you (indicating)  
23 can easily tell me.

24 MS. KESSLER: My understanding was the APDs  
25 had not yet been approved, but we'll verify that.

1 THE WITNESS: Yes.

2 EXAMINER McMILLAN: Okay. I don't have any  
3 more questions.

4 MS. KESSLER: We'll call our next witness.

5 EXAMINER McMILLAN: Please proceed.

6 BRIAN HENTHORN,  
7 after having been previously sworn under oath, was  
8 questioned and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. KESSLER:

11 Q. Please state your name for the record.

12 A. Brian Henthorn.

13 Q. By whom are you employed and in what capacity?

14 A. XTO Energy as a regional geologist.

15 Q. Have you previously testified before the  
16 Division?

17 A. I have.

18 Q. Were your credentials as an expert in petroleum  
19 geology accepted and made a matter of record?

20 A. They were.

21 Q. Are you familiar with the applications filed in  
22 these consolidated cases?

23 A. Yes.

24 Q. And have you conducted a geologic study of the  
25 Bone Spring underlying these lands?

1           A.     Yes, I have.

2                         MS. KESSLER:  Mr. Examiner, I would tender  
3     Mr. Henthorn as an expert in petroleum geology.

4                         EXAMINER McMILLAN:  So qualified.

5           **Q.     (BY MS. KESSLER) Let's turn to Exhibit 8,**  
6     **Mr. Henthorn.  What does this map shows?**

7           A.     Yes.  This is a structure contour on the 2nd  
8     Bone Spring in the area around the subject wells.  The  
9     contour interval is 25 feet.  The first subject well in  
10    Corral Canyon 12H is indicated by the red line, and I  
11    have a two-well cross section indicated -- the A to A  
12    prime cross section indicated by the blue line.  The  
13    wells posted on the map are wells in the Willow Lake;  
14    Bone Spring, Southeast Pool.

15           **Q.     You posted your data points for use of your**  
16     **structure map and cross section on this map; is that**  
17     **correct?**

18           A.     I have, yes.

19           **Q.     What do you see with respect to structure in**  
20     **these two sections?**

21           A.     So yes.  The dip is down to the east relatively  
22     consistent and gentle down to the -- down to the east.

23           **Q.     Have you identified any geologic hazards based**  
24     **on the structure in this section?**

25           A.     No.

1           Q.    And you also have the A to A prime line marked  
2 on this exhibit, correct?

3           A.    I do.

4           Q.    Why did you select these wells on the A to A  
5 prime line?

6           A.    These were the two nearest wells with full data  
7 across the interval of interest.

8           Q.    Okay.  If I turn to Exhibit 9, is this the same  
9 structure map of the 2nd Bone Spring?

10          A.    Yes, it is.

11          Q.    And is the only difference here that you have  
12 called out the 220H well?

13          A.    Correct.  Yes.  The 220H is indicated on this  
14 map by the red line as well.

15          Q.    No changes in the structure and the adjacent  
16 spacing unit?

17          A.    Same map, yes.

18          Q.    What is Exhibit 10?

19          A.    Exhibit 10 is the A to A prime cross section,  
20 referenced on the previous exhibit, north to south,  
21 two-well cross section.  Yeah.  So it's  
22 stratigraphically hung on the base of the 2nd Bone  
23 Spring Sand.  The top of the 2nd Bone Spring Sand is  
24 indicated by the blue line.  The base of the 2nd Sand is  
25 indicated by the green line.  The proposed target

1 intervals for both laterals is indicated by the red  
2 arrow.

3 Q. Okay. And it's the same target you mentioned  
4 for each of the two wells?

5 A. That's correct, yes.

6 Q. What do you see with respect to continuity of  
7 the target interval across the A, A prime line?

8 A. It's very consistent in terms of thickness and  
9 porosity across this interval between the two -- the two  
10 wells and across the -- the -- the planned horizontals.

11 Q. Okay. And no major thickening or thinning?

12 A. No major thickening or thinning, no.

13 Q. What conclusions have you drawn based on your  
14 geologic study of this area?

15 A. So this is -- that would be in the best  
16 interest of the prevention of waste.

17 Q. In your opinion, is horizontal development the  
18 most efficient way to develop this acreage?

19 A. Yeah. It would be, yes.

20 Q. And have you identified any geologic  
21 impediments?

22 A. No. I haven't identified any impediments.

23 Q. In your opinion, will each of the tracts  
24 contribute more or less equally to production in each of  
25 the wells?

1           A.    Yes, they will.

2           Q.    And finally, in your opinion, is the granting  
3 of XTO's application in the best interest of  
4 conservation, the prevention of waste and the protection  
5 of correlative rights?

6           A.    Yes.

7           Q.    Were Exhibits 8 through 10 prepared by you or  
8 compiled under your direction and supervision?

9           A.    They were.

10                       MS. KESSLER:  Mr. Examiner, I move  
11 admission of Exhibits 8 through 10.

12                       EXAMINER McMILLAN:  Exhibits 8 through 10  
13 may now be accepted as part of the record.

14                               (XTO Energy, Inc. Exhibit Numbers 8 through  
15 10 are offered and admitted into evidence.)

16                                       CROSS-EXAMINATION

17 BY EXAMINER McMILLAN:

18           Q.    The question I've got is -- I'm looking at  
19 Exhibit 10.

20           A.    Yes.

21           Q.    How did you select the Lower 2nd Bone Spring  
22 when you can crudely look at the Pickett Draw 2 -- and I  
23 just picked 8,650.  Why not that interval?

24           A.    So the 8,650 does have a lot of porosity in it,  
25 but the primary target at 8,825, let's say, is a more

1 consistent, thicker, higher-porosity interval in this  
2 area, and there is not a tremendous amount of barriers  
3 between that upper position and lower position. So --

4 **Q. So, essentially, are you saying that you**  
5 **actually could drain portions of the 8,650 interval? Is**  
6 **that what you're saying?**

7 A. Yes. That's possible, yes.

8 **Q. All right. Well, that's fine. I don't have**  
9 **any more questions.**

10 EXAMINER McMILLAN: Just for clarity  
11 purposes, you're pooling the working interest plus  
12 override or just working interest?

13 MR. HILGER: Both.

14 MS. KESSLER: Both.

15 EXAMINER McMILLAN: Okay. So you're  
16 pooling working interest plus override. Thanks.

17 With that in mind, any more questions?

18 Cases 20081 and 20082 shall be taken under  
19 advisement.

20 THE WITNESS: Thank you.

21 EXAMINER McMILLAN: Thank you. It was a  
22 good presentation.

23 (Case Numbers 20081 and 20082 conclude,  
24 8:56 a.m.)

25

1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

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

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

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

20 DATED THIS 18th day of December 2018.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
Date of CCR Expiration: 12/31/2018  
Paul Baca Professional Court Reporters

25