

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.
to amend Order No. R-13903 to
Add an Additional Pooled Party,
Lea County, New Mexico
Case No. 22611
(Formerly Case 15206)

Application of XTO ENERGY, INC.
to amend Order No. R-13904 to
Add an Additional Pooled Party,
Lea County, New Mexico
Case No. 22612
(Formerly Case 15207)

Application of XTO ENERGY, INC.
to amend Order No. R-13905 to
Add an Additional Pooled Party,
Lea County, New Mexico
Case No. 22613
(Formerly Case 15208)

Application of XTO ENERGY, INC.
to amend Order No. R-13906 to
Add an Additional Pooled Party,
Lea County, New Mexico
Case No. 22614
(Formerly Case 15209)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 7, 2022

EXAMINER HEARING

This matter came on for hearing before the New Mexico Oil Conservation Division, William Brancard, Esq. Hearing Examiner, John Garcia Technical Examiner, on Thursday, April 7, 2022, via Webex Virtual Conferencing Platform hosted by the New Mexico Energy, Minerals and Natural Resources Department

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Reported by: Mary Therese Macfarlane
New Mexico CCR #122
PAUL BACA COURT REPORTERS
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A P P E A R A N C E S

FOR XTO ENERGY: Michael Feldewert, Esq.
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C O N T E N T S

CASE NOS. 22611, 22612, 22613, 22614	PAGE
CASE CALLED:	3
TAKEN UNDER ADVISEMENT	8
(Record left open for submission of green card)	

I N D E X O F E X H I B I T S .

XTO EXHIBITS	PAGE
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A-1 Mr. Cifuentes' resume	8
A-2 Sample of Well Proposal Letter and AFE	9
A-3 Chronology of Contact	8
B Notice Affidavit	8

1 (Time noted 10:03 a.m.)

2 EXAMINER BRANCARD: And I believe these are four
3 cases here from XTO Energy, 22612, 22612, 22613, 22614.
4 XTO Energy, Inc.

5 MR. FELDEWERT: Good morning, Mr. Examiner,
6 Mr. Garcia. Michael Feldewert with the Santa Fe office of
7 Holland & Hart appearing on behalf of the applicant.

8 EXAMINER BRANCARD: Are there any other
9 interested persons for Cases 22611, -612, -613, -614?
10 (Note: Pause.)

11 Hearing none, Mr. Feldewert can you explain
12 why we are re-kopening a really old case?

13 MR. FELDEWERT: Certainly.

14 In these consolidated cases XTO is seeking
15 to add an additional aworking interest owner to the terms
16 of four existing Pooling Orders R-13903, R-13904, R-13905,
17 and R-13906, and they were issued in October of 2014.

18 And this series of Orders pooled
19 uncommitted mineral owners in four standup spacing units
20 in the Bone Spring Formation underlying Section 31, 19
21 South, 35 East in Lea County, and they were committed to
22 the Perla Verde 31 State 1H, 2H, 3H and 4H wells, all of
23 which have been drilled to perfect each of the four
24 spacing units.

25 In our Exhibit Package you'll see the

1 affidavit of Mr. Bryan Cifuentes, who is a landman. This
2 is his first time testifying before the Division, so he
3 provides his resume and his credentials that I believe
4 supports his testimony as an expert in petroleum land
5 matters.

6 And what he describes in his affidavit is
7 that the company, in an examination here, determined that
8 they had provided Notice of the pooling proceedings in
9 2014 by publication to an estate, the estate of J.M.
10 Zachary, Lola Zachary and their heirs and devisees.

11 What XTO did not know and that they have
12 more recently discovered is that in 2009 D.M. Royalties,
13 Limited was assigned a portion of the mineral estate that
14 was originally owned by Mr. Zachary and his wife Lola
15 Zachary, and that occurred through a series of conveyances
16 that XTO did not know in 2014 and only recently
17 discovered.

18 So while Notice was not provided directly
19 to D.M. Royalties, Limited, it was provided in the sense
20 of Notice being provided to the estate.

21 But XTO has decided that to cure any Notice
22 issues that may exist for D.M. Royalties, they have filed
23 these applications to definitively add this working
24 interest owner to the existing Pooling Order.

25 So with the affidavit, Mr. Cifuentes has

1 provided as Exhibit A-2 the Well Proposal Letter that was
2 sent out in November to the manager for D.M. Royalties
3 identifying the four wells, starting the attempts to reach
4 a voluntary agreement to address their interest, and
5 providing the AFE that reflects the actual cost of
6 drilling each of these four wells.

7 Exhibit A-3 is then a summary of their
8 communications since in his efforts to reach a voluntary
9 agreement with this particular working interest owner.

10 We then provide as Exhibit B the affidavit
11 from our office confirming that Notice of the hearing was
12 provided by Certified Mail to the land manager with D.M.
13 Royalties. And you'll see from the Postal Report that the
14 package notice was delivered and received by the company.

15 So we ask that Exhibits A and B be
16 admitted, and note that the Pooling Orders will remain the
17 same. We only ask that the Division issue an Order adding
18 D.M. Royalties to the terms of those existing Pooling
19 Orders, R-13903, R-13904, R-13905 and R-13906.

20 EXAMINER BRANCARD Thank you.

21 Mr. Garcia, questions?

22 EXAMINER GARCIA: I have no questions

23 EXAMINER BRANCARD: Well, just displaying my
24 ignorance once again, it's sort of fascinating to see the
25 difference between estimated well costs and actual well

1 costs. They are pretty big, but in both directions.

2 So anyway, Mr. Feldewert, this last page of
3 your exhibits, you're saying this is the U.S. Postal
4 Service Report?

5 MR. feldewert: Yes.

6 EXAMINER BRANCARD: Because there's no title on
7 it or -- nothing that would lead one to believe that it's
8 anything other than somebody typing some numbers and
9 letters on a piece of paper. So I just need you to verify
10 what you have given us here.

11 MR. FELDEWERT: This is my understanding of the
12 pullout from the postal report.

13 I guess I can get you the green card.

14 EXAMINER BRANCARD: Yeah. I mean, with one
15 person you're notifying a green card might have been a
16 good idea.

17 If you could do that, that would be great.

18 MR. FELDEWERT: Going old school.

19 EXAMINER BRANCARD: Exactly.

20 All right. Are there any other interested
21 persons for Cases 22611, -612, -613, -614. (Note:
22 pause.)

23 Hearing none, Cases 22611, 22612 22613,
24 22614 will be taken under advisement, the record left open
25 for submission of the green card in this case

1 MR. FELDEWERT: Thank you, sir.
2 EXAMINER BRANCARD: Thank you.
3 (Time noted 10:12 a.m.)
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1 STATE OF NEW MEXICO).

2 : ss

3 COUNTY OF TAOS)

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REPORTER'S CERTIFICATE

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I, MARY THERESE MACFARLANE, New Mexico Reporter

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CCR No. 122, DO HEREBY CERTIFY that on Thursday, April 7,

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2022, the proceedings in the above-captioned matter were

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taken before me; that I did report in stenographic

10

shorthand the proceedings set forth herein, and the

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foregoing pages are a true and correct transcription to

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the best of my ability and control.

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I FURTHER CERTIFY that I am neither employed by

14

nor related to nor contracted with (unless excepted by the

15

rules) any of the parties or attorneys in this case, and

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that I have no interest whatsoever in the final

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disposition of this case in any court.

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/S/CCR/Mary Therese Macfarlane

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MARY THERESE MACFARLANE, CCR

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NM Certified Court Reporter No. 122

License Expires: 12/31/2022

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