



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

OIL AND GAS DOCKET NO. 08-0299392

THE APPLICATION OF XTO ENERGY INC. FOR EXCEPTION TO 16 TEX. ADMIN. CODE §3.10 TO PERMIT DOWNHOLE COMMINGLING OF PRODUCTION FOR THE MIDKIFF 38 LEASE, WELL NO. 13 (#32455), MIDKIFF 38 -B- LEASE, WELL NO. 7 (#32293), SPRABERRY (TREND AREA) AND WILSHIRE (PENNSYLVANIAN) FIELDS, MIDLAND COUNTY, TEXAS

HEARD BY: Brian Fancher, P.G. – Technical Examiner
Marshall F. Enquist – Administrative Law Judge

HEARING DATE: April 22, 2016
RECORD CLOSED: July 27, 2016
SUBMISSION DATE: May 10, 2017
CONFERENCE DATE: June 6, 2017

APPEARANCES:

REPRESENTING:

APPLICANT:

David Gross
Rick Johnston, P.E.

XTO Energy, Inc.

EXAMINERS' REPORT AND RECOMMENDATION

STATEMENT OF THE CASE

Pursuant to 16 Tex. Admin. Code §3.10, XTO Energy, Inc. (XTO) seeks exception to downhole commingle the Spraberry (Trend Area) and Wilshire (Pennsylvanian) Fields (Fields) in the Midkiff 38 Lease, Well No. 13 and the Midkiff 38 -B- Lease, Well No. 7 (Subject Application).

The application is unopposed. The Administrative Law Judge and Examiner ("Examiners") recommend that it be granted.

DISCUSSION OF THE EVIDENCE

Applicable Rules

16 Tex. Admin. Code §3.10, in part, states:

- (a) General prohibition. Oil or gas shall not be produced from different strata through the same string of tubulars except as provided in this section. ...
- (b) Exception. After notice and an opportunity for a hearing, the commission or its delegate may grant an exception to subsection (a) of this section to permit production from a well or wells commingling oil or gas or oil and gas from different strata, if commingled production will prevent waste or promote conservation or promote correlative rights.

Notice of the Subject Application was sent by U.S. mail to interest owners in the Fields, as well as the Oil and Gas Division, on March 9, 2016.

Roybal's Supporting Testimony

Candyce Roybal testified on behalf of XTO. Ms. Roybal is an attorney/landman employed with Veritas 321 Energy Partners (Veritas), a third-party brokerage firm. Ms. Roybal testified that Veritas was hired by XTO to perform curative title and carry title forward as to Well No. 13. In her review, it came to light that a disparity in royalty ownership exists in the subsurface between the Fields.¹

Midkiff 38 Lease, Well No. 13 (Well No. 13)

Well No. 13 is located in the southeast quarter of Section 38, Block 39, T-4-S, T. & P. RR. Co. Survey.² XTO submitted a copy of a table entitled "Midkiff 38 #13, Ownership Differences as to Depths".³ That exhibit identifies three individuals as equivalent overriding royalty interest owners (ORRI) in the Fields. It also identifies Pioneer Natural Resources USA, Inc. (Pioneer) as an ORRI in the Spraberry, but not in the Wilshire.

Midkiff 38 -B-Lease, Well No. 7 (Well No. 7)

Well No. 7 is located in the northeast quarter of the same section that houses Well No. 13.⁴ XTO submitted a similar copy of a table entitled "Midkiff 38B #7, Ownership Differences as to Depths".⁵ That exhibit purportedly identifies six individuals with comparably varying ORRI and non-participating royalty interest (NPRI) in the Fields. It also identifies six entities that also have either ORRI or NPRI in the Fields. Three of the twelve total persons or entities on that exhibit hold ownership in the Fields. Eight of the twelve total persons or entities strictly hold ownership in the Spraberry. Finally, one of the persons or entities strictly holds ownership in the Wilshire.

Johnston's Supporting Testimony

Rick Johnston, a consulting petroleum engineer, testified on behalf of XTO. He is registered as a Professional Engineer with the Texas Board of Professional Engineers.

¹ Testimony from 5:00 to 7:00 of audio recording.

² XTO Exh. No. 1.

³ XTO Exh. No. 2.

⁴ XTO Exh. No. 4.

⁵ XTO Exh. No. 5.

XTO submitted a copy of Final Order No. 7C-0274132 – Authority of Blanket Rule 10 Exceptions for the Spraberry (Trend Area) Field and Various Enumerated Fields, Various Counties, Texas.⁶ The purpose of that exhibit is to show that any operator may downhole commingle production in the Fields in Oil and Gas District Nos. 7C, 8 and 8A.⁷

XTO submitted copies of the field rules and proration schedules for the Spraberry and Wilshire, taken from the Commission's Online Search System.^{8,9} Exhibit No. 9 indicates that the Spraberry is defined as the correlative interval from 6,865 to 10,605 feet.

XTO submitted a copy of Final Order No. 7C-0289896 – Amending Field Rules for the Wilshire (Pennsylvanian) Field, Upton County, Texas.¹⁰ The purpose of that exhibit is to show the correlative interval for the Wilshire, as defined in Rule 1 of those field rules. That exhibit shows that the Wilshire is defined as the correlative interval from 9,660 to 10,774 feet, and it is intended to include all reservoirs in the Strawn, Atoka/Bend, Atoka Lime, Mississippian Lime, Barnett and Kinderhook Formations. Mr. Johnston testified that the Wilshire immediately underlies the Spraberry.¹¹

XTO submitted copies of Commission documents entitled, "Statewide Rule 10 Exception Data Sheet" for the Subject Wells.^{12,13} The purpose of those exhibits is to provide answers to that data sheet explicit to the Subject Wells. Those exhibits indicate that XTO seeks exception to Statewide Rule 10 in the Spraberry, Wilshire, and Bradford Ranch (Strawn) Fields. However, Mr. Johnston testified that XTO's requested relief in the instant case does not include the Bradford Ranch (Strawn) Field because it's correlative interval overlaps with the Wilshire's correlative interval.¹⁴ Those exhibits identify that the royalty and working interests are not identical with respect to the Fields.

XTO submitted copies of completion reports filed with the Commission for the Subject Wells.^{15,16} Well No. 13 is permitted as a vertical well that was completed on October 10, 2014. It was perforated from 7,774 to 11,699, which included the Spraberry, Bradford, and Wilshire Fields. Well No. 7 is permitted as a vertical well that was completed on January 30, 2015. It was performed from 7,814 to 11,765 feet.

XTO submitted copies of drilling permits for the Subject Wells.^{17,18} Those exhibits indicate that drilling permits were issued to Berry Oil Co. in the Spraberry and Bradford Fields, effective April 30, 2014. Amended drilling permits were subsequently issued to XTO to include the Wilshire along with the previously mentioned fields, effective December 9, 2015.

⁶ XTO Exh. No. 6.

⁷ Testimony at 18:50.

⁸ XTO Exh. No. 8

⁹ XTO Exh. No. 9.

¹⁰ XTO Exh. No. 7.

¹¹ Testimony 19:55 to 20:40.

¹² XTO Exh. No. 10.

¹³ XTO Exh. No. 15.

¹⁴ Testimony at 23:25.

¹⁵ XTO Exh. No. 11

¹⁶ XTO Exh. No. 16.

¹⁷ XTO Exh. No. 12.

¹⁸ XTO Exh. No. 17.

XTO submitted copies of two spreadsheets, one for each of the Subject Wells, that includes several rows of data that were used to calculate the hydrocarbon pore volume (HCPV) in the Fields.^{19,20} The Spraberry is identified by a green color on those exhibits, while the Wilshire is identified by yellow. Mr. Johnston testified that HCPV is a calculation of net oil associated with a particular interval that indicates an interval's productivity. It is obtained through well log interpretation. He testified that it is commonly used to determine the volume of hydrocarbons beneath a lease. The purpose of using HCPV in the instant case is to appropriately allocate production from the Fields in the Subject Wells to varying interest owners.²¹ With regard to Well No. 13, XTO calculated that 89% that well's overall production comes from the Spraberry, while 11% comes from the Wilshire. With regard to Well No. 7, 96.9% of its overall production comes from the Spraberry, while 3.1% comes from the Wilshire.

XTO submitted a copy of the Examiners' Report and Recommendation and Final Order made for O&G 06-0247784 – Approval of XTO Energy, Inc.'s Application for Rule 10 Exception for its Pine Tree ISD Lease, Well No. 10, Willow Springs (Cotton Valley) Field and Willow Springs (Travis Peak) field, Gregg County, Texas (Pine Tree).²² The purpose of that exhibit is to show that the Commission previously granted XTO similar authority for the Pine Well, where 34% of that well's production was allocated to interest owners above 9,100 feet, and 66% was allocated to interest owners below 9,100 feet. It is worth noting that Finding of Fact No. 10 made for that case states, "several wells on this lease have already been commingled in these two fields and are assigned to the Willow Springs (Cotton Valley) Field. The allocation of production in the prior wells has also been based on hydrocarbon pore volume."

FINDINGS OF FACT

1. Pursuant to 16 Tex. Admin. Code §3.10, XTO Energy, Inc. ("XTO") seeks exception to downhole commingle the Spraberry (Trend Area) ("Spraberry") and Wilshire (Pennsylvanian) ("Wilshire") Fields (collectively, "Fields") in the Midkiff 38 Lease, Well No. 13 ("Well No. 13") and the Midkiff 38 -B- Lease, Well No. 7 ("Well No. 7") (collectively, "Subject Application").
2. XTO's requested relief in the Subject Application does not include the Bradford Ranch (Strawn) Field because it's correlative interval overlaps with the Wilshire's correlative interval.
3. Notice of the Subject Application was sent by U.S. mail to interest owners in the Fields, as well as the Oil and Gas Division, on March 9, 2016.
4. The Subject Application is unprotested.
5. XTO purchased the Subject Wells from Linn Energy.
6. The Subject Wells are permitted wells in the Spraberry; however, they were drilled to a total depth that also included the Wilshire.

¹⁹ XTO Exh. No. 13.

²⁰ XTO Exh. No. 18.

²¹ Testimony from 41:17 to 1:02:00.

²² XTO Exh. No. 21.

7. The Wilshire immediately underlies the Spraberry.
8. Well No. 13 is permitted as a vertical well that was completed on October 10, 2014. It was perforated from 7,774 to 11,699, which included the Spraberry, Bradford, and Wilshire Fields.
9. Well No. 7 is permitted as a vertical well that was completed on January 30, 2015. It was performed from 7,814 to 11,765 feet.
10. With regard to Well No. 13, XTO calculated that 89% that well's overall production comes from the Spraberry, while 11% comes from the Wilshire.
11. With regard to Well No. 7, XTO calculated that 96.9% of its overall production comes from the Spraberry, while 3.1% comes from the Wilshire.

CONCLUSIONS OF LAW

1. Resolution of the subject application is a matter committed to the jurisdiction of the Railroad Commission of Texas. Tex. Nat. Res. Code §81.051.
2. Legally sufficient notice has been provided to all affected persons.
3. The requested relief sought by XTO Energy, Inc. to downhole commingle production from the Subject Fields satisfies the requirements of Title 16 TAC §3.10.

EXAMINERS' RECOMMENDATION

The Examiners recommend that the Commission grant an exception to Statewide Rule 10 to provide for downhole commingling of the Fields, and cancel overproduction in the Subject Well.

Respectfully submitted,



Brian Fancher, P.G.
Technical Examiner



Marshall F. Enquist
Administrative Law Judge