

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

Douglas J. Meyer, Pamela C. Handley, Stephen)
T. Meyer, Andrea K. Meyer, and Emil J. Meyer,)
Jr,)
)
Plaintiffs/Appellants,)

) Supreme Court No.
) 20150170
)

vs.)

Noman E. Engebretson, Sonja M. Eckert, Karen)
A. Bailey, Robert C. Engebretson, Stephanie C.)
McCall and Robert E. McCall Trustees of the)
Stephanie C. McCall Living Trust dated)
December 21, 2010, Karen E. Smith Personal)
Representative of the Estate of Caryl E. Smith,)
Henry M. Hanson, Dean C. Hanson, Angela Scott)
DeGrado, Myrna Elletson, Deanna Faye Asmus,)
Nancy Carlson, Debra Neff, Kristen Giuseffi,)
Dennis Meyer, Christie Meyer, North Dakota)
Minerals LLC, Wilma Wiengart, Daniel Meyer,)
Sandra Spehar, Kay Malloy, Bruce R. Davis,)
Claude Dean Davis, Kelly Marie Fox, Michelle)
Annette Jefferson, James Ghrames, John M.)
Pearsall, Jeanine Sanders, David O. Pearsall The)
Estate of Oliver O. Pearsall, c/o John M. Pearsall,)
Gary P. Hytrek, Pamela C. Hytrek, Cheryl D.)
Hytrek, Barbara June Nisley, Fred Louis)
Orchard, Eric J. (and Regina) Kaupanger, Elena)
M. Brady Trustee of the Mark A. Kaupanger)
2008 Irrevocable Special Needs Trust, Heir of)
Arthur M. Kaupanger, Sonja M. Nelson,)
Kristiane Kaupanger f/k/a Chris Ellis, Karen L.)
Kaupanger, Karlene R. Dahlmeier, Cynthia K.)
Kaupanger, Kurt Kaupanger, American Oil and)
Gas Inc., Evertson Energy Partners Royalty LLC,)
Gary C. Stewart, Ann Marie Urban, LPI)
Holdings LLC, Eagle Pass Properties LLC, S&E)
Royalty LLC, Rose Exploration Inc., William R.)
LaCrosse and Tammy LaCrosse, Sundance)
Energy Inc., XTO Energy Inc., Whiting Oil and)
Gas Corporation, Northern Oil and Gas Inc.,)
Morganthaler Oil and Gas Properties LLC,)
Charles J. Heringer III Trustee, Triangle USA)

Petroleum Corporation, Horizon Royalties LLC,)
OGR Bakken Resources LLC, Hess Corporation,)
WM ND Energy Resources II LLC, and any)
individual or entity known and or unknown who)
may have or claim interest in mineral ownership)
in and to all oil gas and other minerals in the)
subject lands,)
)
Defendants/Appellees.)

Appeal from Order for Judgment and Final Judgment Dated April 29, 2015
Case No. 53-2013-CV-01313
County of Williams, Northwest Judicial District
The Honorable David W. Nelson, Presiding

BRIEF OF DEFENDANT/APPELLEE XTO ENERGY INC.

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XTO Energy Inc.**

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ARGUMENT

I. XTO Energy Inc. Owns Oil and Gas Leases Covering Certain Interests Owned by both Plaintiffs and Defendants and Therefore Takes No Position on the Merits of the Appeal.

[¶1] XTO Energy Inc. (“XTO”) owns oil and gas leases covering interests owned or claimed by the parties on both sides of this dispute. *See* Appendix at 27, ¶¶ 32, 39–40. Because it owns leases covering certain interests claimed by Plaintiffs and certain interests claimed by Defendants, XTO has declined to take a position on the merits of the dispute. XTO nevertheless requests that the Court issue an opinion and order identifying the rightful owners of the mineral interests at issue and eliminating ambiguity in the chain of title.

[¶2] XTO further notes that no party has challenged the validity of any existing lease. Accordingly, regardless of which argument prevails, any leases covering the interests of the rightful mineral owners remain valid and in effect.

CONCLUSION

[¶3] For the reasons set forth above, XTO respectfully requests that the Court enter an order determining the ownership of the mineral interests at issue and confirming the validity of existing leases.

DATED this 17th day of August, 2015.

FREDRIKSON & BYRON, P.A.

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2015, I electronically filed with the Clerk of the North Dakota Supreme Court the foregoing Brief by E-mail, and served the Brief by E-mail on the following:

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