

January 14, 2011

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

FOR THE TENTH CIRCUIT

XTO ENERGY INC., f/k/a Cross Timbers
Oil Company, a Delaware Corporation,

Petitioner,

v.

BILL FANKHOUSER and TIM
GODDARD, on behalf of themselves and
all others similarly situated,

Respondents.

No. 10-707
(D.C. No. 5:07-CV-00798-L)

ORDER

Before **TACHA, O'BRIEN**, and **TYMKOVICH**, Circuit Judges.

XTO Energy, Inc. has filed a petition seeking leave to appeal a class certification order entered in Fankhouser v. XTO Energy, Inc., 07-CV-798 (W. D. Okla.). The petition is filed pursuant to Fed. R. App. P. 5 and Fed. R. Civ. P. 23(f).

The court has considered the district court's certification order, the "Petition of XTO Energy, Inc. for Permission to Appeal Order Granting Class Certification" and the "Answer to Petition of XTO Energy, Inc. for Permission to Appeal Order Granting Class Certification."

The “Petition of XTO Energy, Inc. for Permission to Appeal Order Granting Class Certification” is denied.

Entered for the Court,
ELISABETH A. SHUMAKER
Clerk of Court

A handwritten signature in black ink, appearing to read "Douglas E. Cressler", written over a light gray rectangular background.

by: Douglas E. Cressler
Chief Deputy Clerk