

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

LOUIS CAPPS and DERNICE CAPPS

PLAINTIFFS

v.

CASE NO. 4:10-CV-1459 BSM

XTO ENERGY INC.

DEFENDANT

ORDER

XTO moves for reconsideration of the order [Doc. No. 15] granting the motion to remand for lack of subject matter jurisdiction [Doc. No. 6]. Plaintiffs object. The motion to reconsider is DENIED.

Defendant has presented no additional evidence to support the affidavit of Chris Broadway. That affidavit is determined to still be insufficient to meet the standard set forth by the Eighth Circuit in *Usery v. Anadarko Petroleum Corp.*, 606 F.3d 1017 (8th Cir. 2010).

Defendant also states that XTO stands ready to purchase the mineral rights for \$75,000, and this offer estimates the value of the disputed mineral leases at a minimum of \$75,000. The problem, of course, is that the dispute is over the ownership of a mineral lease and not the actual ownership of the mineral rights themselves. The fact that XTO is willing to pay \$75,000 for the mineral rights does not mean that the disputed lease to those rights is worth \$75,000.

Because XTO has failed to prove subject matter jurisdiction, the motion to reconsider [Doc. No. 15] is DENIED.

IT IS SO ORDERED THIS 6th day of June 2011.


UNITED STATES DISTRICT JUDGE