



Supreme Court of Wyoming Issues Significant Decision Regarding Custody Transfer Meters

By: [Meg Gibson](#)

On December 9, 2011, the Supreme Court of Wyoming affirmed the State Board of Equalization's ("Board") determination regarding the valuation point of natural gas production for tax purposes from the LaBarge Field in Sublette County.¹ In this case, Exxon unsuccessfully disputed the definition of "custody transfer meter" as a particular valuation point of natural gas for taxation purposes. The *Exxon* decision follows the Court's 2004 decision in *Amoco*, further reiterating the Court's definition of a custody transfer meter.²

To ensure that the meter at the well is a custody transfer meter, the party with custody of the gas must change. The valuation point for each party may not be the same. In Wyoming, if "no dehydration is performed, other than within a processing facility," the valuation point of natural gas production for tax purposes is "at the inlet to the initial transportation related compressor, custody transfer meter or processing facility, whichever occurs first."³

In *Exxon*, the Court declined to modify the *Amoco* definition of a custody transfer meter as "an official measurer of gas as it passes from one entity to another for the other's immediate charge or control."⁴ The Court affirmed the Board's determination that the meters at each well were not custody transfer meters for Exxon's gas production because the gas was not transferred to another entity at the meters.

The facts in *Exxon* were essentially undisputed. Exxon operated three federal natural gas units, Fogarty Creek Unit, Lake Ridge Unit and Graphite Unit, which constituted the LaBarge Field. Exxon was the sole lessee of the federal leases, except for Howell and Yates (7%) in the Fogarty Creek Unit. Each of the 18 wells had meters nearby that measured the gas volumes, mainly since

¹ *Exxon Mobil Corp. v. Wyo. Dep't of Revenue*, 2011 WY 161 (2011).

² *Amoco Prod. Co. v. Dep't of Revenue*, 2004 WY 89, 94 P.3d 430 (Wyo. 2004).

³ Wyo. Stat. Ann. § 39-14-203(b)(iv).

⁴ *Exxon Mobil Corp.*, 2011 WY 161.

each well had slightly different ownership because of the nonconsenting parties involved. Downstream, the Shute Creek processing facility was owned wholly by Exxon.

Prior litigation over the negotiations of a processing agreement resulted in the "Howell and Yates Agreements," which required Howell and Yates to pay Exxon a "fee of sixty-five percent (65%) of the gross revenues received from the sale of their shares of production."⁵ The Howell and Yates Agreements stated that gas was transferred to Exxon for processing at the meters located at each well. This means that Exxon simply remained in control of the gas passing through the meters to the Shute Creek processing facility owned by Exxon.

In the wake of the *Exxon* case, the Supreme Court of Wyoming will probably not change the definition of a custody transfer meter, but continue to rely on its definition in *Amoco*, "an official measurer of gas as it passes from one entity to another for the other's immediate charge or control."⁶

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⁵ *Id.*

⁶ *Exxon Mobil Corp.*, 2011 WY 161; *Amoco Prod. Co.*, 2004 WY 89.