

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

APPLICATION OF TITUS OIL & GAS PRODUCTION, LLC
FOR APPROVAL OF PRODUCTION ALLOCATION,
LEA COUNTY, NEW MEXICO

Case No. 22473

APPLICANT’S PREHEARING STATEMENT

Pursuant to 19.15.4.13(B) NMAC hereby submits its pre-hearing statement and brief in support of the application.

APPEARANCES

APPLICANT

TITUS OIL & GAS
PRODUCTION, LLC

ATTORNEY:

Sharon T. Shaheen
Ricardo S. Gonzales
MONTGOMERY & ANDREWS, P.A.
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
Telephone: (505) 986-2678
sshaheen@montand.com
rgonzales@montand.com

OTHER PARTIES

NM OIL CONSERVATION DIVISION

Eric Ames
Jesse Tremaine
Assistant General Counsel
**NM ENERGY AND MINERALS AND
NATURAL RESOURCES DEPARTMENT**
1220 S. St. Francis Drive
Santa Fe, NM 87501
Telephone: (505) 741-1231
(505) 231-9312
eric.ames@state.nm.us
jessek.tremaine@state.nm.us

FORTIS MINERALS II, LLC, *et al.*

Dana Hardy
Jaclyn M. McLean
HINKLE SHANOR LLP
P.O. Box 2068
Santa Fe, NM 87504-2068
(505) 982-4554
dhardy@hinklelawfirm.com
jmclean@hinklelawfirm.com

STATEMENT OF THE CASE

In this matter, Titus seeks an order from the Division approving the production allocation of minerals in the Bone Spring formation (WC-025 G-08 S263412K; Bone Spring [96672]) underlying a standard 280-acre, more or less, horizontal spacing and proration unit (“HSU”) comprised of the E/2 E/2 of Section 29 and the NE/4 NE/4 & Lot 1 of irregular Section 32, Township 26 South, Range 35 East, NMPM, in Lea County, New Mexico, and Lot 1 of irregular Section 25, Block C24, in Loving County, Texas. The HSU will be dedicated to the **El Campeon Fed Com 204H** well (“El Campeon 204H”), to be horizontally drilled from an approximate surface hole location 332’ FSL and 620’ FEL of Section 20, T26S-R35E, Lea County, New Mexico, to an approximate bottom hole location 10’ FSL and 1912’ FEL of Section 25, Block C24, Public School Land Survey, Abstract No. 701, Loving County, Texas. The well will cross the New Mexico/Texas border, continuing to produce in the Bone Spring formation (Sandbar (Bone Spring) [Texas Field No. 80544500, District Name: 08]).

The minerals proposed to be developed consist of state and federal minerals within the State of New Mexico and fee minerals within the State of Texas. Titus proposes that production be allocated to New Mexico and Texas mineral owners prorated on the basis of surface acreage in the proration unit or in any other manner mutually acceptable to the Division and to the Railroad Commission of Texas.

That portion of the spacing unit within New Mexico shall consist of approximately 230 acres. The first take point and the completed interval will meet the setback requirements set forth in the statewide rules for horizontal oil wells. The last take point within New Mexico will be on the state line between New Mexico and Texas. Titus will seek approval of this non-standard location.

Both this Well, and other interstate wells within the same development plan, will have surface locations in New Mexico and traverse the interstate boundary to bottom holes in Texas. Titus has no plans to drill wells into New Mexico from a surface location in Texas.

BACKGROUND

Titus first began working on its development plan for the El Campeon interstate wells in September 2020. In November 2020, Titus began conferring with the New Mexico Oil Conservation Division (“Division”), at which time Titus was advised that it would need to request approval for allocation of production. At the same time, Titus began conferring with the Railroad Commission of Texas (“RRC”). In January 2021, Titus also began conferring with the New Mexico State Land Office (“SLO”) and the Bureau of Land Management (“BLM”).¹

One year ago, in Case No. 21872, Titus sought approval of production allocation for the El Campeon Fed Com 404H interstate well (“El Campeon 404H”). *See* Application, Case No. 21872 (filed April 6, 2021).² After the matter was continued twice at the Division’s request, on June 17, 2021, the matter was heard by the Division. The RRC issued a permit on August 24, 2021. On September 3, 2021, Case No. 21872 was referred to the Commission by the Division

¹ Exhibits documenting these communications are part of the record in Case No. 21872.

² Titus submitted several affidavits, numerous exhibits, and testimony from three witnesses in support of its previous application seeking approval of production allocation for a similar interstate well in Case No. 21872. Titus requests that the Commission accept all of the filings and testimony in Case No. 21872 as part of the record in this matter before the Commission.

Director in Order No. R-21831. *See generally* Applicant's Prehearing Statement and Brief in Support of Application at 6-7, Case No. 21872 (Sept. 21, 2021) (detailing the filings and status conferences held before the Division).

After hearing on September 28, 2021, the Commission issued Order No. R-21831-A ("Order"), approving the application. *Id.* at 3, ¶ 19. The Order provided that drilling shall commence within one year, but that Titus "shall not commence production from the Well until the interested agencies in New Mexico and Texas have executed a broader agreement, likely the MOU addressing the issues that have been presented by the parties in this case." *Id.* ¶ 27.

Subsequently, Titus determined that drilling the El Campeon 404H but waiting to commence production until a broader agreement (MOU) was reached was not economically feasible. As a result, Titus made the business decision to drill the well fully in New Mexico because of concerns that MOU discussions would be protracted. Unfortunately, Titus' concerns have proven to be true. Undeterred, Titus has numerous other wells planned to drill across the state line, including the El Campeon 204H. With the RRC and Commission's openness to allowing wells across the state line, the MOU is the only outstanding item.

From the outset, for approximately 2½ years now, Titus has made every effort to confer with all interested parties and to proceed in a manner that would satisfy each agency's requirements and resolve any concerns. Titus will present evidence of its most recent efforts at the hearing in this matter on April 14, 2022. This includes communications with the Texas Railroad Commission and with the Energy, Minerals and Natural Resources Department ("EMNRD") wherein Titus offers to provide any information necessary for the agencies to consider while negotiating the memorandum of understanding ("MOU"). Among other things, Titus understands that the RRC provided a draft MOU (similar to the stipulated draft between

Titus and the State Land Office) to EMNRD, on January 31, 2022, and that as of March 4, 2022, EMNRD general counsel was reviewing the draft and hoped to circulate a draft back to Texas in mid-March.

Titus looks forward to the report on the status of the MOU in Case No. 21872, which is also set for hearing on April 14. Titus notes that, as a small company, it has been difficult to plan its drilling schedule during this time period due to the uncertainty surrounding the MOU. Titus employees have spent hundreds of hours working on this project. In addition, Titus has invested tens of thousands of dollars. Consequently, Titus is doing everything it can to facilitate the MOU process so that an MOU can be finalized before constraints preclude drilling, as they did with the El Campeon 404. As always, Titus stands ready to provide any information that any agency may need to move forward in reviewing and reaching final agreement on a MOU. Titus urges the agencies to diligently work towards finalizing a MOU so that Titus can safely and efficiently drill its proposed interstate wells, thereby developing the State, federal and fee minerals which will be produced by these interstate wells.

PROPOSED EVIDENCE

APPLICANT:

WITNESSES	EST. TIME	EXHIBITS
Landman Walter Jones	10-15 minutes	2-3 new exhibits

OTHER PARTIES:

WITNESSES	EST. TIME	EXHIBITS
TBD		

Respectfully submitted,

MONTGOMERY & ANDREWS, P.A.

By: /s/Sharon T. Shaheen

Sharon T. Shaheen
Ricardo S. Gonzales
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
Telephone: (505) 982-2678
sshaheen@montand.com
rgonzales@montand.com

Attorneys for Titus Oil & Gas Production, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following counsel of record by electronic mail on April 7, 2022:

Eric Ames
Jesse Tremaine
Assistant General Counsel
NM ENERGY AND MINERALS AND NATURAL
RESOURCES DEPARTMENT
1220 S. St. Francis Drive
Santa Fe, NM 87501
(575) 741-1231
(505) 231-9312
eric.ames@state.nm.us
jessek.tremaine@state.nm.us

*Attorneys for Intervenor NM Oil
Conservation Division*

Dana Hardy
Michael Rodriguez
HINKLE SHANOR, LLP
P.O. Box 2068
Santa Fe, NM 87504-2068
(505) 982-4554
dhardy@hinklelawfirm.com
mrodriguez@hinklelawfirm.com

*Attorneys for Fortis Minerals II, LLC;
Santa Elena Minerals IV, LP; &
Pegasus Resources, LLC*

/s/ Sharon T. Shaheen
Sharon T. Shaheen

District I
 1625 N. French Dr., Hobbs, NM 88240
 Phone:(575) 393-6161 Fax:(575) 393-0720

District II
 811 S. First St., Artesia, NM 88210
 Phone:(575) 748-1283 Fax:(575) 748-9720

District III
 1000 Rio Brazos Rd., Aztec, NM 87410
 Phone:(505) 334-6178 Fax:(505) 334-6170

District IV
 1220 S. St Francis Dr., Santa Fe, NM 87505
 Phone:(505) 476-3470 Fax:(505) 476-3462

State of New Mexico
Energy, Minerals and Natural Resources
Oil Conservation Division
1220 S. St Francis Dr.
Santa Fe, NM 87505

QUESTIONS

Action 96867

QUESTIONS

Operator: Titus Oil & Gas Production, LLC 420 Throckmorton St, Ste 1150 Fort Worth, TX 76012	OGRID: 373986
	Action Number: 96867
	Action Type: [HEAR] Prehearing Statement (PREHEARING)

QUESTIONS

Testimony	
<i>Please assist us by provide the following information about your testimony.</i>	
Number of witnesses	Not answered.
Testimony time (in minutes)	Not answered.