

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

**APPLICATION OF FLAT CREEK RESOURCES, LLC  
FOR COMPULSORY POOLING AND APPROVAL OF  
NON-STANDARD SPACING UNIT,  
EDDY COUNTY, NEW MEXICO**

**Case No. 23587**

**APPLICATION OF FLAT CREEK RESOURCES, LLC  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 23588**

**APPLICATION OF FLAT CREEK RESOURCES, LLC  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 23589**

**APPLICATION OF FLAT CREEK RESOURCES, LLC  
FOR COMPULSORY POOLING,  
EDDY COUNTY, NEW MEXICO**

**Case No. 23590**

---

**FLAT CREEK RESOURCES, LLC**



---

**Supplemental Information on the Oil  
Conservation Division's Previous Treatment of  
Requests for Alternative Spacing Units**

*Rena 7 Fed Com 601H, 603H, 702H, 704H Wells*

Applicant Flat Creek Resources, LLC (“Flat Creek”) submits the following supplemental information on the Division’s previous treatment of requests for compulsory pooling of alternative spacing units, as requested by the Division at the hearing in these matters on July 20, 2023.

- Summary of proceeding and orders in Case Nos. 20897-20899:

Prior to hearing in Case Nos. 20897-20899, *In re Applications of Titus Oil & Gas Production LLC*, the Division denied EOG Resource’s motion to dismiss, which sought dismissal of Titus’s applications on the basis that “[i]t would be premature to have a compulsory pooling hearing without knowing what lands are included in the designated area, drilling area.” Tr. 5:12-14, 12:11-12 (Feb. 20, 2020); *see id.* 6:21-25, 7:1-4, 10:10-16. Ultimately, Titus decided which size spacing units it preferred prior to the Division entering orders. *See* Tr. 23:15-18 (stating that Titus anticipated knowing whether it would drill two mile or two and a half mile laterals “within the next couple of weeks”); *see also* Email chain, Kurt Simmons and Sharon Shaheen (Mar. 20, 2020) (communications regarding Titus’s choice of spacing units for each application). The Division issued orders accordingly.

- Previous Division orders approving alternative units:

The Division has historically issued orders approving alternative spacing units for vertical wells in order to prevent waste and protect correlative rights. This practice is analogous to Flat Creek’s request in the subject applications. *See, e.g.,*

- Order No. R-13139 at 3-4, Ordering ¶ 1, Case No. 14298, *In re Application of Mewbourne Oil Co. for Compulsory Pooling, Eddy County, New Mexico* (June 17, 2009) (pooling three different size units to be dedicated to one well to accommodate potential for completion in various formations, which may be oil or gas);
- Order No. R-12283 at 6-7, Ordering ¶ 1, Case No. 13359, *In re Application of Mewbourne Oil Co. for Compulsory Pooling, Lea County, New Mexico* (Feb. 15, 2005) (pooling two different size units dedicated to one well to accommodate potential completion in different formations); *id.* at 6, ¶ 16 (“To avoid the drilling of unnecessary wells, protect correlative rights, and afford to the owner of each interest in the proposed 40-acre oil and 160-acre gas spacing Units (‘the Two Unit’) the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted mineral interests, whatever they may be, within these two Units.”);
- Order No. R-11914 at 4, Ordering ¶ 1, Case No. 12987, *In re Application of Mewbourne Oil Co. for Compulsory Pooling and an Unorthodox Well Location, Eddy County, New Mexico* (Feb. 26, 2003) (pooling four different size units

dedicated to one well to accommodate potential completion in various formations, which may be oil or gas);

- Order No. R-7032 at 85, ¶¶ 10-11, Case No. 7499, *In re Application of Amoco Prod. Co. for Compulsory Pooling, Lea County, New Mexico* (July 1, 1982) (pooling “all mineral interests, whatever they may be, within said unit”; allowing the operator to drill to the Morrow or to the Devonian, or both, and the “poolee” to exercise its option to participate on a “split-risk” basis); *see also id.* at 88, ¶ 26 (providing that the terms of the order should be applicable to drilling and completion in possible pay zones above the Morrow or between the base of the Morrow and the top of the Devonian).

- Division’s authority to approve alternative units:

As the foregoing orders demonstrate, no statute or rule prohibits the Division from issuing an order approving alternative units. Rather, the Division is authorized and obligated “to do whatever may be reasonably necessary to carry out the provisions of” to prevent waste and to protect correlative rights. NMSA 1978, § 70-2-11.

Here, a prudent operator would drill two-mile wells to prevent waste that could occur if the federal leases are not included in the spacing units. Further, with lease expirations at issue, the correlative rights of interest owners are at stake. The requested alternative spacing units seek to prevent waste by including the federal leases and to protect correlative rights in the event that the federal permits are not approved before the lease expirations. The Division should therefore issue orders as requested, approving the alternative spacing units, in order to protect correlative rights and prevent waste.

In conclusion, Flat Creek notes that no interest owner opposes Flat Creek’s request for orders approving alternative spacing units. Presumably, the interest owners recognize that the requested alternative developments will protect their correlative rights and prevent waste.

Respectfully submitted,

**MONTGOMERY & ANDREWS, PA.**

By:         /s/Sharon T. Shaheen          
 Sharon T. Shaheen  
 Post Office Box 2307  
 Santa Fe, New Mexico 87504-2307  
 (505) 986-2678  
[sshaheen@montand.com](mailto:sshaheen@montand.com)  
[ec: wmcginnis@montand.com](mailto:wmcginnis@montand.com)

*Attorney for Flat Creek Resources, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 1, 2023, I served a copy of the foregoing document to the following counsel of record via electronic mail:

Michael H. Feldewert  
Adam G. Rankin  
Julia Broggi  
Paula M. Vance  
HOLLAND & HART, LLP  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
TEL: (505) 988-4421  
FAX: (505) 983-6043  
[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)  
[agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)  
[jbroggi@hollandhart.com](mailto:jbroggi@hollandhart.com)  
[pmvance@hollandhart.com](mailto:pmvance@hollandhart.com)

*Attorneys for Devon Energy Production Company, L.P.*

**From:** Sharon T. Shaheen  
**To:** ["Simmons, Kurt, EMNRD"](#)  
**Subject:** RE: CP 20897-20899 - Pakse South 24-25-36 Fed Com 111H, 112H et alia.  
**Date:** Friday, March 20, 2020 5:27:00 PM  
**Attachments:** [image002.jpg](#)  
[image003.jpg](#)

---

Kurt,

The Exhibit A for 20898 is correct. For that particular project, Titus needs to go with the alternative 640/2-mile proposal as opposed to the 800/2.5-mile proposal. Thanks for checking in about that.

Have a great weekend!

Sharon

**Sharon T. Shaheen**  
**Montgomery & Andrews, P.A.**  
**P. O. Box 2307**  
**Santa Fe, NM 87504-2307**  
**325 Paseo de Peralta**  
**Santa Fe, NM 87501**  
**(505) 986-2678 (direct)**  
**(505) 603-8307 (cell)**



**THIS MESSAGE CONTAINS INFORMATION WHICH MAY BE CONFIDENTIAL AND PRIVILEGED. UNLESS YOU ARE THE ADDRESSEE (OR AUTHORIZED TO RECEIVE FOR THE ADDRESSEE), YOU MAY NOT USE, COPY OR DISCLOSE TO ANYONE THE MESSAGE OR ANY INFORMATION CONTAINED IN THE MESSAGE. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE ADVISE THE SENDER BY REPLY E-MAIL TO [sshaheen@montand.com](mailto:sshaheen@montand.com) AND DELETE THE MESSAGE. THANK YOU.**

---

**From:** Simmons, Kurt, EMNRD [mailto:[Kurt.Simmons@state.nm.us](mailto:Kurt.Simmons@state.nm.us)]  
**Sent:** Friday, March 20, 2020 4:21 PM  
**To:** Sharon T. Shaheen <[sshaheen@montand.com](mailto:sshaheen@montand.com)>  
**Subject:** RE: CP 20897-20899 - Pakse South 24-25-36 Fed Com 111H, 112H et alia.

Hi Sharon,

Exhibit A for CP 20898 requests only a 640 acre spacing unit, whereas the companion cases ask for 800 acres. Also, the wells listed in this Exhibit are the alternative 2-mile-well-bore versus the 2 1/2-bores Titus prefers. If you're good with that, I'll write the order up with this Exhibit A, but if you want the 800 acre spacing unit, could you please send along version that embodies those wells and acres?

Thanks,

**Kurt Simmons**

*Petroleum Specialist*

Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
505-660-7020



---

**From:** Sharon T. Shaheen <[sshaheen@montand.com](mailto:sshaheen@montand.com)>

**Sent:** Friday, March 20, 2020 11:31 AM

**To:** Simmons, Kurt, EMNRD <[Kurt.Simmons@state.nm.us](mailto:Kurt.Simmons@state.nm.us)>

**Subject:** [EXT] FW: CP 20897-20899 - Pakse South 24-25-36 Fed Com 111H, 112H et alia.

**Sharon T. Shaheen**  
**Montgomery & Andrews, P.A.**  
**P. O. Box 2307**  
**Santa Fe, NM 87504-2307**  
**325 Paseo de Peralta**  
**Santa Fe, NM 87501**  
**(505) 986-2678 (direct)**  
**(505) 603-8307 (cell)**

M&A-Logo



**THIS MESSAGE CONTAINS INFORMATION WHICH MAY BE CONFIDENTIAL AND PRIVILEGED. UNLESS YOU ARE THE ADDRESSEE (OR AUTHORIZED TO RECEIVE FOR THE ADDRESSEE), YOU MAY NOT USE, COPY OR DISCLOSE TO ANYONE THE MESSAGE OR ANY INFORMATION CONTAINED IN THE MESSAGE. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE ADVISE THE SENDER BY REPLY E-MAIL TO [sshaheen@montand.com](mailto:sshaheen@montand.com) AND DELETE THE MESSAGE. THANK YOU.**

---

**From:** Sharon T. Shaheen

**Sent:** Wednesday, March 11, 2020 7:03 PM

**To:** 'Simmons, Kurt, EMNRD' <[Kurt.Simmons@state.nm.us](mailto:Kurt.Simmons@state.nm.us)>

**Subject:** RE: CP 20897-20899 - Pakse South 24-25-36 Fed Com 111H, 112H et alia.

Kurt, please see attached. Please let me know if you have any questions.

Thanks,  
Sharon

**Sharon T. Shaheen**  
**Montgomery & Andrews, P.A.**  
**P. O. Box 2307**  
**Santa Fe, NM 87504-2307**  
**325 Paseo de Peralta**  
**Santa Fe, NM 87501**  
**(505) 986-2678 (direct)**  
**(505) 603-8307 (cell)**



**THIS MESSAGE CONTAINS INFORMATION WHICH MAY BE CONFIDENTIAL AND PRIVILEGED. UNLESS YOU ARE THE ADDRESSEE (OR AUTHORIZED TO RECEIVE FOR THE ADDRESSEE), YOU MAY NOT USE, COPY OR DISCLOSE TO ANYONE THE MESSAGE OR ANY INFORMATION CONTAINED IN THE MESSAGE. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE ADVISE THE SENDER BY REPLY E-MAIL TO [sshaheen@montand.com](mailto:sshaheen@montand.com) AND DELETE THE MESSAGE. THANK YOU.**

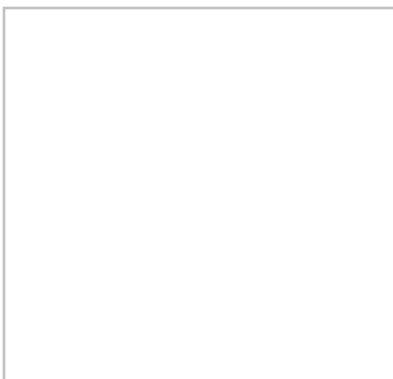
---

**From:** Simmons, Kurt, EMNRD [<mailto:Kurt.Simmons@state.nm.us>]  
**Sent:** Tuesday, March 10, 2020 4:11 PM  
**To:** Sharon T. Shaheen <[sshaheen@montand.com](mailto:sshaheen@montand.com)>  
**Subject:** FW: CP 20897-20899 - Pakse South 24-25-36 Fed Com 111H, 112H et alia.

Please don't forget to follow up with the Exhibit A's for these cases.

Thanks,

**Kurt Simmons**  
*Petroleum Specialist*  
Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87505  
505-660-7020



---

**From:** Simmons, Kurt, EMNRD

**Sent:** Wednesday, March 4, 2020 4:19 PM

**To:** 'sshaheen@montand.com' <[sshaheen@montand.com](mailto:sshaheen@montand.com)>

**Subject:** CP 20897-20899 - Pakse South 24-25-36 Fed Com 111H, 112H et alia.

Dear Ms. Shaheen,

Can you please provide Exhibit A's for the above referenced wells and applications for Compulsory Pooling? As soon as you provide the Exhibit A's, OCD will have everything necessary to prepare its order.

Sincerely,

***Kurt Simmons***

*Petroleum Specialist*

Oil Conservation Division

1220 South St. Francis Drive

Santa Fe, New Mexico 87505

505-660-7020

