

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

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

**OCC Case No. 22473
ORDER NO. R-22151**

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission (“Commission”) on the application by Titus Oil & Gas Production, LLC (“Titus”) pursuant to the provisions of NMSA 1978, §70-2-17 and Order No. R-21831-A, for an order 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 Commission conducted a public merits hearing on April 14, 2022 and having convened for deliberation on the same, both *via* the WebEx teleconferencing application and pursuant to the Governor’s various COVID 19-related health orders, and having considered the testimony and the records and filings in this case, as well as the arguments of the parties, and being otherwise fully advised, enter the following findings, conclusions and order.

FINDS THAT:

Procedural History

1. Proper notice was given of the application and the hearing of this matter, and the Commission has jurisdiction of the parties and the subject matter herein.
2. The Commission reviewed all admitted exhibits and considered all admitted testimony given in this matter prior to rendering its final decision. In particular, the Commission admitted all party exhibits for its consideration.
3. On or about December 14, 2021, Titus filed an application for compulsory pooling with the New Mexico Oil Conservation Commission (“OCC”) pursuant to §70-2-17 NMSA and Order No. R-21831-A thereby opening OCC Case No. 22473. Specifically, Titus sought relief in the form of an “order approving the production allocation between New Mexico and Texas for minerals produced from the Bone Spring formation underlying the HSU.”

4. On January 14, 2022, the New Mexico Oil Conservation Division (“OCD”) entered its appearance along with a Notice of Intervention.
5. On April 30, 2022, Fortis Minerals II, LLC, Santa Elena Minerals IV, LSP, and Pegasus Resources, LLC (collectively “Pegasus”) entered their appearances.
6. On April 7, 2022, Titus filed its Prehearing Statement, consistent with Commission regulations, setting forth its proposed evidence and listing landman Charles Jones as Titus’s sole witness.
7. On April 7, 2022, Pegasus filed its Prehearing Statement, consistent with Commission regulations, voicing Pegasus’s support for Titus’s application and referring the Commission to a prior and related OCC case (OCC Case No. 21872) for supporting documents and arguments. Pegasus did not propose any witnesses to testify on its behalf.
8. On April 7, 2022, OCD filed its Prehearing Statement, consistent with OCC regulations, voicing opposition to Titus’s application “only to the extent that it requests this Commission take notice of the administrative record in case 21872, and if the OCC approves the application, issue an Order conditioning the application consistent with the terms of Order R-21831-A

Testimony of Walter Jones

9. Titus called sole witness, Walter Jones, Landman with Titus, to testify.
10. Mr. Jones testified that he is the Vice President of Land at Titus and is familiar with Titus’s application in this matter, including OCC Case No. 21872.
11. Mr. Jones’ credentials as a landman have been accepted by OCD and OCC in the past.
12. Mr. Jones testified that the proposed wells in this case and OCC Case No. 21872 are substantially similar, with the key differences being:
 - a. that the well before the OCC targets the Bone Spring Formation, whereas the well in OCC Case No. 21872 targeted the Wolfcamp Formation; and
 - b. that there is a slight difference in surface location.
13. Mr. Jones testified that the sole working interest owner in New Mexico is Titus, whereas the sole working interest owner in Texas is Pegasus, and the parties reached agreement with respect to the subject well.
14. Mr. Jones testified that the subject well complies with New Mexico setback requirements for oil wells, as do the first and last take points, with the latter falling on the state line between New Mexico and Texas.

15. Mr. Jones further stated that, if either OCC or OCD so desired, Titus would request approval for a non-standard location.

16. Mr. Jones explained that there are a mix of leases involved in the subject well. Specifically, a federal lease for Section 31, a state lease for Section 32, and a few fee leases in Texas (Section 25).

17. Mr. Jones elaborated as to Section 32, stating that that particular lease allows for increased mineral recovery.

18. Mr. Jones testified that the allocation plan for OCC Case No. 21872 is substantially similar to the one before the Commission, with such allocation based on surface acreage to comprise a proration unit. Thus, allocation would be in accord with how much of the entire proration unit each tract possesses.

19. As to how the Texas Railroad Commission (“RRC”) handled the proposed well, Mr. Jones explained that the TRC treated the subject well identically to the well in OCC Case No. 21872, which was permitted by the TRC.

20. When asked about reporting requirements for both New Mexico and Texas, Mr. Jones stated that each portion of the well will have its own API. More particularly, the New Mexico portion will have a New Mexico API and the Texas portion will have a Texas API, with allocation being in accord with those API’s.

21. Mr. Jones testified that if a well was only drilled in New Mexico, it would leave stranded minerals in Texas, based on the current oil and gas development in the applicable part of Texas.

22. In reviewing the C-102 for the 204H, Mr. Jones stated that the document shows the entire spacing unit (which included both New Mexico and Texas) and that all mineral interest owners impacted by the C-102 were properly notified.

23. The Commission questioned Mr. Jones about Order No. R-21831-A in OCC Case No. 21872, specifically whether Mr. Jones was familiar with the requirements of the Order and whether he was comfortable with the same requirements being put into place for the subject well. Mr. Jones responded in the affirmative to each.

Testimony of Dylan Fuge

24. Mr. Dylan Fuge, General Counsel for the New Mexico Energy, Minerals and Natural Resources Department (“EMNRD”), appeared for general questioning concerning on-going negotiations between EMNRD and the RRC that impact both this matter and OCC Case No. 21872.

25. Mr. Fuge explained that EMNRD’s goal is to develop, with the RRC, a Memorandum of Understanding (“MOU”) that will address oil and gas wells and development that crosses the New Mexico-Texas state border.

26. In particular, Mr. Fuge stated that EMNRD seeks an MOU that addresses scenarios in which surface facilities in either New Mexico or Texas are accounted for.

27. Mr. Fuge testified that Texas originally sought a very narrow MOU that would not even cover the well in OCC Case No. 21872, which is contrary to the interests of New Mexico.

28. Mr. Fuge was unable to provide estimated timing for a possible resolution of the MOU issue between New Mexico and Texas.

Exhibits admitted into evidence

29. During the course of Titus's presentation, the Commission admitted Titus's Exhibits A through B, as follows:

- a. Exhibit A – Written direct testimony of Landman Walter Jones;
 - i. Exhibit A(1) – Preliminary C-102;
 - ii. Exhibit A(2) – Sample notice letter;
- b. Exhibit B – Affidavit of Notice.

CONCLUSIONS

30. The Commission has jurisdiction over the parties and the subject matter of this case.

31. Proper public notice has been given for the merits hearing in this matter.

32. The Oil and Gas Act, NMSA 1978 Sections 70-2-1 et seq. (Act), prohibits the waste of oil and gas and delegates to the Division the authority to prevent waste and protect correlative rights.

33. Section 70-2-17(C) of the Act governs Titus's application.

34. Titus's application meets all requirements found under Section 70-2-17(C) of the Act and, as such, is approved.

35. That the Titus's application is approved, but subject to following terms as adopted from Order No. R-21831-A, OCC Case No. 21872, the companion case to this one:

- a. The Unit shall be dedicated to the Well as described above in this Order;
- b. Allocation of all oil and gas production and its associated revenues, royalties, taxes, and any other related allocations shall be made in the manner agreed upon in the MOU.
- c. Operator shall obtain a New Mexico API# and a Texas API# for the Well. The portion of the Well in New Mexico shall be associated with the New Mexico API#, while the portion of the Well in Texas shall be reported under the Texas API#.

Operator shall comply with all New Mexico reporting requirements through the New Mexico API#.

- d. Operator's permitting and subsequent operations shall be subject to the rules and regulations of New Mexico and Texas in the manner agreed upon in the MOU.
 - e. Operator shall report to New Mexico and Texas's appropriate regulatory agencies the gross production volumes from the entire wellbore and the production volumes from the Well, allocated in the manner agreed upon in the MOU, to lands located within each state's borders, as applicable. Operator shall report to each state's regulatory agencies all other required information in the manner agreed to in the MOU.
 - f. Operator shall obtain the OCD's approval for a non-standard location in New Mexico.
 - g. Operator shall maintain the appropriate financial assurances, bonds, and any other applicable financial and insurance requirements required by both the State of New Mexico and the State of Texas in the manner agreed to in the MOU.
 - h. The Operator shall commence drilling the Well within one (1) year after the date of this Order and complete the Well no later than one (1) year after the commencement of drilling of the Well. Operator 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.
 - i. Any substantially similar proposals from Titus or other applicants should be filed directly with the Commission.
 - j. This Order is not intended as precedent for future cases and applies exclusively to the facts and the parties present before the Commission in this matter.
36. Jurisdiction over this case is retained for the entry of such further orders as the Commission may deem necessary.

ORDER

37. Titus's application is **APPROVED** under the following conditions which are substantially similar to those found in Order No. R-21831-A, OCC Case No. 21872:
- a. The Unit shall be dedicated to the Well described above.
 - b. Allocation of all oil and gas production and its associated revenues, royalties, taxes, and any other related allocations shall be made in the manner agreed upon in the MOU.

- c. Operator shall obtain a New Mexico API# and a Texas API# for the Well. The portion of the Well in New Mexico shall be associated with the New Mexico API#, while the portion of the Well in Texas shall be reported under the Texas API#. Operator shall comply with all New Mexico reporting requirements through the New Mexico API#.
- d. Operator's permitting and subsequent operations shall be subject to the rules and regulations of New Mexico and Texas in the manner agreed upon in the MOU.
- e. Operator shall report to New Mexico and Texas's appropriate regulatory agencies the gross production volumes from the entire wellbore and the production volumes from the Well, allocated in the manner agreed upon in the MOU, to lands located within each state's borders, as applicable. Operator shall report to each state's regulatory agencies all other required information in the manner agreed to in the MOU.
- f. Operator shall obtain the OCD's approval for a non-standard location in New Mexico.
- g. Operator shall maintain the appropriate financial assurances, bonds, and any other applicable financial and insurance requirements required by both the State of New Mexico and the State of Texas in the manner agreed to in the MOU.
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- i. Any substantially similar proposals from Titus or other applicants should be filed directly with the Commission.
- j. This Order is not intended as precedent for future cases and applies exclusively to the facts and the parties present before the Commission in this matter.

IT IS SO ORDERED.

DONE at Santa Fe, New Mexico, on the 12th Day of May 2022.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**DR. WILLIAM AMPOMAH, PhD
MEMBER**

William Ampomah

GREG BLOOM, MEMBER

Gregory Bloom

ADRIENNE SANDOVAL, M.E., CHAIR

Adrienne