

**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.,*

- o 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);
- o 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.”);
- o 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);

- o 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
[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
agrarkin@hollandhart.com
jbroggi@hollandhart.com
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)

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From: Simmons, Kurt, EMNRD [mailto:Kurt.Simmons@state.nm.us]
Sent: Friday, March 20, 2020 4:21 PM
To: Sharon T. Shaheen <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>

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

To: Simmons, Kurt, EMNRD <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)

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From: Sharon T. Shaheen

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

To: 'Simmons, Kurt, EMNRD' <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)

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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>

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

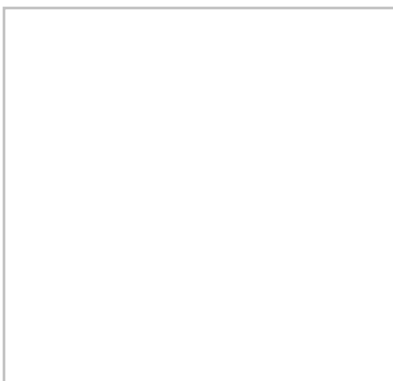
Petroleum Specialist

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>

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

