

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

**APPLICATION OF FRANKLIN MOUNTAIN
ENERGY 3, LLC FOR COMPULSORY POOLING,
AND, TO THE EXTENT NECESSARY, APPROVAL OF AN
OVERLAPPING SPACING UNIT
LEA COUNTY, NEW MEXICO**

CASE NO. 24472

CLOSING ARGUMENT

North Fork Land Management, LP and Aquila Operating Company, LLC (both referred herein as“North Fork”) for their closing argument state:

A. Introduction.

This case presents two competing interests both of which essentially compete for production of oil and gas from a pre-existing 40-acre spacing unit comprised of the SW/4NE/4 of Section 27, T19S, R35E, Lea County, NM. North Fork has an existing vertical well, the Toro 27 State 5 well, dedicated to the 40-acre spacing unit, which is currently producing oil and gas from the spacing unit.

Franklin Mountain Energy 3, LLC (“Franklin Mountain”) proposes to drill two horizontal wells at the same depth that the North Fork is producing from in the Wolfcamp formation. Franklin Mountain’s proposed wells are the Treble State Com 703H (“703H well”) and the Treble State Com 803H well. North Fork’s concerns are with the 703 H well which will be located closer to North Fork’s well. The proposed 703H well will cross through the North Fork spacing unit and be within 260 feet from the North Fork well. North Fork’s concerns are:

- Collision of the Franklin Mountain drilling equipment and the North Fork well and the measure of control that Franklin Mountain would have in drilling the 703H well.
- Hydraulic fracturing of Franklin Mountain’s Treble State No. 703H well. North Fork has had adverse effects from hydraulic fracturing of an adjoining Franklin Mountain horizontal well and from a Mewbourne frac that completely ruined one of North Fork’s wells

The horizontal rules of the Division clearly allow the proposed overlap by Franklin Mountain's proposed spacing unit of the North Fork spacing unit.¹ However, despite NMAC 19.15.16 (B)(9)(a) allowing an overlap, it is unclear whether, Franklin Mountain may perforate within the 40-acre spacing unit. Subsection (b) (i) of the foregoing rule says that a subsequent well, i.e. the 703H well may be drilled only with the approval North Fork. Franklin Mountain does not have North Fork's approval due to its objections. North Fork, as a practical matter, and based on the horizontal rules, cannot prevent the drilling of the 703H well, but under Subsection (b)(i) prevent the perforation of the well within the 40-acre spacing unit to prevent damage from a frac hit to its well.

B. Testimony.

The testimony in this case from both North Fork's expert drilling engineer and Franklin Mountain's expert drilling engineer is not necessarily in conflict. North Fork's expert said that Franklin Mountain's 703H well has to be drilled 330 feet away from the bottomhole location of the North Fork well to avoid a well collision and that damage from hydraulic fracturing may be mitigated but not prevented.

Franklin Mountain says that with its state of the art drilling methods and equipment it can steer the well such that a collision will be avoided. However, Franklin Mountain avoided any attempt to mitigate against their hydraulic fracturing damaging North Fork's well. The parties did agree that 30-days notice of commencement of drilling operations and 30-days notice for completion of the well.

¹ **Existing and subsequent wells in horizontal spacing units.**

(a) **Existing wells.** Existing wells in spacing units, horizontal or otherwise, that are wholly or partially included in a new horizontal spacing unit remain dedicated to their existing spacing units and are not part of the new horizontal spacing unit unless otherwise agreed by all working interest owners in the existing and new spacing units. If all owners (and BLM or state land office, if federal or state minerals are included, and the appropriate governmental authority if tribal minerals are included, in the old or new spacing unit) agree to re-dedicate the existing well to the new horizontal spacing unit, the operator shall file an amended form C-102 reflecting the re-dedication, and shall attach a certificate to the effect that all owners have agreed in writing thereto. (emphasis added).

(b) **Subsequent wells in existing spacing units.** Subject to the terms of any applicable operating agreement, or to 19.15.13 NMAC or any applicable compulsory pooling order as to any compulsory pooled interests:

(i) a horizontal well that will have a completed interval partially in an existing well's spacing unit, and in the same pool or formation, may be drilled only with the approval of, or, in the absence of approval, after notice to, all operators and working interest owners of record or known to the applicant in the existing and new well's spacing units; (emphasis added).

.....

Assuming that Franklin Mountain can steer its well away from the North Fork well, the proximity of the well will nonetheless damage the North Fork well when Franklin Mountain completes the 703H well which involves hydraulic fracturing (frac) of the well.

C. Conclusion.

To protect North Fork's correlative rights and to prevent damage to its existing well, hydraulic fracturing Franklin Mountain should not be allowed to perforate and conduct hydraulic fracturing operations within North Fork's spacing unit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was served to counsel of record by electronic mail this 24th day of June, 2024, as follows:

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