

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

**APPLICATION OF NOVO OIL & GAS, LLC  
FOR A NON-STANDARD SPACING AND PRORATION UNIT  
AND COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO.**

**CASE NOS. 16281 - 16286**

**RESPONSE OF NOVO OIL & GAS, LLC IN  
OPPOSITION TO BTA OIL PRODUCERS' MOTION FOR A CONTINUANCE**

Novo Oil & Gas, LLC ("Novo") submits its response in opposition to the Motion for a Continuance filed by BTA Oil Producers, LLC ("BTA"). In support of its response, Novo states:

1. Novo began planning for development of the lands covered by the referenced cases, which are within the Potash area, a year ago.
2. Over this period Novo and operators with offsetting acreage to Novo's development have worked with the BLM collaboratively over the course of the past twelve months, resulting in a development plan for Novo which avoids stranding offsetting acreage.
3. BTA recorded a conveyance from US Borax in December, 2017 with the knowledge that the mineral interests purported to be conveyed in that instrument would be the subject of litigation involving TDY Industries, LLC ("TDY").
4. In March, 2018, a suit for slander of title and other claims was filed by TDY against BTA in U.S. District Court for the State of New Mexico.

5. Until BTA interposed its claim to mineral interests long considered by BTA and others to be owned by TDY, Novo had been negotiating with Marathon Oil Permian LLC as lessee in a lease granted by TDY as to 240 acres in the S/2S//2 of Sections 3, 4 and 5, T23S, R29E now claimed by BTA (“disputed mineral interests”).

6. The lands in Section 8 included in BTA’s proposed well development emailed to Novo on July 3, 2018, are also the subject of the litigation between BTA and TDY.

7. Contrary to the allegations in the Motion for Continuance, Novo and BTA communicated several times by email and telephone between the time Novo sent its May 3, 2018 well proposal attached to BTA’s motion and July 3, 2018, when BTA emailed its competing proposal to Novo.

8. BTA’s proposed development includes only the E/2 of Sections 5 and 8.

9. At no time did BTA ask for clarification of Novo’s proposal, nor advise Novo that it found its proposal confusing, although Novo specifically asked whether BTA had any questions.

10. Despite the probable prospect of the passage of years before the litigation between BTA and TDY is resolved, BTA seeks at the eleventh hour to delay or preclude Novo’s development plans which have been in the making for more than a year.

11. BTA’s potential interests in Sections 8 and 9 can be developed from the West with two-mile wells, without impacting Novo’s development plan.

12. Novo’s counsel is unavailable July 26<sup>th</sup> and will be out of the country. Novo’s counsel also has scheduling conflicts related to an August 9<sup>th</sup> hearing date, so the prospect of a consequent August 23<sup>rd</sup> hearing date interferes substantially with timely development.

WHEREFORE, Novo requests that Novo's Case Nos. 16281 - 16286 be heard at the July 12th hearing.

BEATTY & WOZNIAK, P.C.

By: 

Candace Callahan

500 Don Gaspar Avenue

Santa Fe, New Mexico 87505

(505) 983-8545 or (505) 983-8765 (direct)

[ccallahan@bwenergylaw.com](mailto:ccallahan@bwenergylaw.com)

ATTORNEYS FOR NOVO ENERGY PRODUCTION  
COMPANY, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail on July 9, 2018.

Michael H. Feldewert  
Jordan L. Kessler  
Adam G. Rankin  
Julia Broggi  
Holland & Hart, LLP  
Post Office Box 2208  
Santa Fe, New Mexico 87504  
Tel (505) 988-4421p  
[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)  
[jkessler@hollandhart.com](mailto:jkessler@hollandhart.com)  
[agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)  
[jbroggi@hollandhart.com](mailto:jbroggi@hollandhart.com)

*Attorneys for BTA Oil Producers*

Earl E. DeBrine, Jr.  
Jennifer I. Bradfute  
Deana M. Bennett  
Modrall, Sperling, Roehl, Harris & Sisk, P.A.  
P. O. Box 2168  
Bank of America Centre  
500 Fourth Street NW, Suite 1000  
Albuquerque, New Mexico 87103-2168  
(505) 848-1800  
[edbrine@modrall.com](mailto:edbrine@modrall.com)  
[Jennifer.bradfute@modrall.com](mailto:Jennifer.bradfute@modrall.com)  
[dmb@modrall.com](mailto:dmb@modrall.com)

*Attorneys for Marathon Oil Permian LLC*



---

Candace Callahan