

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

**APPLICATION OF TITUS OIL & GAS PRODUCTION,  
LLC, FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO**

**Case No. 20897**

**APPLICATION OF TITUS OIL & GAS PRODUCTION,  
LLC, FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO**

**Case No. 20898**

**APPLICATION OF TITUS OIL & GAS PRODUCTION,  
LLC, FOR COMPULSORY POOLING, LEA COUNTY,  
NEW MEXICO**

**Case No. 20899**

**AMENDED PRE-HEARING STATEMENT and RESPONSE TO MOTION TO DISMISS**

TITUS OIL & GAS PRODUCTION, LL (“Titus or Applicant”) provides this Amended Pre-Hearing Statement as required by the rules of the Division. Herein, Titus also responds to the motion to dismiss stated in the Amended Prehearing Statement filed by opponent EOG Resources, Inc. on or about February 11, 2020.

**APPEARANCES**

**APPLICANT**

TITUS OIL & GAS  
PRODUCTION, LLC

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**OPPONENT**

EOG RESOURCES, INC.

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**STATEMENT OF THE CASE**

In Case No. **20897**, Applicant seeks an order from the Division pooling all uncommitted interests in the 1st Bone Spring formation (Salt Lake [53560]) in a standard 800-acre, more or less, horizontal spacing and proration unit (“HSU”) comprised of the W/2 of Sections 24 and 25 and the NW/4 of Section 36, Township 20 South, Range 32 East, Lea County, New Mexico (“2.5-Mile HSU”), or in a standard 640-acre HSU comprised of the W/2 of Sections 24 and 25, Township 20 South, Range 32 East, NMPM, in Lea County, New Mexico (“2-Mile HSU”), if potash needs require 2-mile wells, instead of 2.5 mile wells. Applicant proposes to drill the following wells in the 2.5-Mile HSU:

- **Pakse South 24-25-36 Fed Com 111H** well, to be horizontally drilled from an approximate surface hole location 275’ FNL and 1030’ FWL of Section 24-T20S-R32E, to an approximate bottom hole location 2650’ FSL and 1030’ FWL of Section 36-T20S-R32E; and
- **Pakse South 24-25-36 Fed Com 112H** well, to be horizontally drilled from an approximate surface hole location 275’ FNL and 2310’ FWL of Section 24-T20S-

R32E, to an approximate bottom hole location 2650' FSL and 2310' FWL of Section 36-T20S-R32E.

In the alternative, Applicant proposes to drill the same wells, with different bottom-hole locations in Section 25, as 2-mile laterals in the 2-Mile HSU. The completed intervals and first and last take points in either HSU will meet statewide setback requirements for horizontal wells. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs, the designation of Applicant as Operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The wells and lands are located approximately 33 miles east of Carlsbad, New Mexico.

In Case No. **20898**, Applicant seeks an order from the Division pooling all uncommitted interests in the 2nd Bone Spring formation (Salt Lake [53560]) in a standard 800-acre, more or less, horizontal spacing and proration unit ("HSU") comprised of the W/2 of Sections 24 and 25 and the NW/4 of Section 36, Township 20 South, Range 32 East, Lea County, New Mexico ("2.5-Mile HSU"), or in a standard 640-acre HSU comprised of the W/2 of Sections 24 and 25, Township 20 South, Range 32 East, NMPM, in Lea County, New Mexico ("2-Mile HSU"), if potash needs require 2-mile wells, instead of 2.5 mile wells. Applicant proposes to drill the following wells in the 2.5 Mile HSU:

- **Pakse South 24-25-36 Fed Com 221H** well, to be horizontally drilled from an approximate surface hole location 250' FNL and 1030' FWL of Section 24-T20S-R32E, to an approximate bottom hole location 2650' FSL and 1030' FWL of Section 36-T20S-R32E; and
- **Pakse South 24-25-36 Fed Com 222H** well, to be horizontally drilled from an approximate surface hole location 250' FNL and 2310' FWL of Section 24-T20S-

R32E, to an approximate bottom hole location 2650' FSL and 2310' FWL of Section 36-T20S-R32E.

In the alternative, Applicant proposes to drill the same wells, with different bottom-hole locations in Section 25, as 2-mile laterals in the 2-Mile HSU. The completed intervals and first and last take points for the wells in either HSU will meet statewide setback requirements for horizontal wells. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs, the designation of Applicant as Operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The wells and lands are located approximately 33 miles east of Carlsbad, New Mexico.

In Case No. **20899**, Applicant seeks an order from the Division pooling all uncommitted interests in the 3rd Bone Spring formation (Salt Lake [53560]) in a standard 800-acre, more or less, horizontal spacing and proration unit ("HSU") comprised of the W/2 of Sections 24 and 25 and the NW/4 of Section 36, Township 20 South, Range 32 East, Lea County, New Mexico ("2.5-Mile HSU"), or in a standard 640-acre HSU comprised of the W/2 of Sections 24 and 25, Township 20 South, Range 32 East, NMPM, in Lea County, New Mexico ("2-Mile HSU"), if potash needs require 2-mile wells, instead of 2.5 mile wells. Applicant proposes to drill the following wells in the 2.5 Mile HSU:

- **Pakse South 24-25-36 Fed Com 321H** well, to be horizontally drilled from an approximate surface hole location 225' FNL and 1030' FWL of Section 24-T20S-R32E, to an approximate bottom hole location 2650' FSL and 1030' FWL of Section 36-T20S-R32E; and
- **Pakse South 24-25-36 Fed Com 322H** well, to be horizontally drilled from an approximate surface hole location 225' FNL and 2310' FWL of Section 24-T20S-

R32E, to an approximate bottom hole location 2650' FSL and 2310' FWL of Section 36-T20S-R32E.

In the alternative, Applicant proposes to drill the same wells, with different bottom-hole locations in Section 25, as 2-mile laterals in the 2-Mile HSU. The completed intervals and first and last take points for the wells in either HSU will meet statewide setback requirements for horizontal wells. Also to be considered will be the cost of drilling and completing the well and the allocation of the costs, the designation of Applicant as Operator of the well, and a 200% charge for the risk involved in drilling and completing the well. The wells and lands are located approximately 33 miles east of Carlsbad, New Mexico.

**PROPOSED EVIDENCE**

**APPLICANT:**

WITNESSES	EST. TIME	EXHIBITS
Walter Jones, Landman	30	3-4
Allen Frierson, Geologist	30	5-7

**OPPONENT EOG RESOURCES, INC:**

WITNESSES	EST. TIME	EXHIBITS
None. (See EOG's Amended Prehearing Statement at 2.)		

**PROCEDURAL MATTERS**

The above-captioned cases should be consolidated at hearing. If no party objects, Titus will present these cases by affidavit.

## RESPONSE TO MOTION TO DISMISS

EOG argues that Titus's compulsory pooling applications should be dismissed under the doctrine of primary jurisdiction because the Bureau of Land Management ("BLM") has not yet approved a plan of development. EOG's Pre-Hearing Statement at 2. EOG cites to no authority and provides no analysis in support of its argument. *See id.* The Motion should therefore be summarily rejected.

Moreover, the doctrine of primary jurisdiction does not apply to the circumstances here—it applies only when the same issue is pending before both an agency *and a court*. *Valdez v. State*, 2002-NMSC-028, ¶ 6, 132 N.M. 667, 54 P.3d 71 (explaining that the doctrine applies when a court should defer to the expertise of an administrative body); *Eldridge v. Circle K Corp.*, 1997-NMCA-022, ¶ 21, 123 N.M. 145, 934 P.2d 1074 (stating that the doctrine arises when both a court and an agency have concurrent jurisdiction). No court is involved here. Moreover, as will be explained in more detail at hearing, the Division and BLM do not have concurrent jurisdiction. Thus, the same issue is not pending before both agencies.

Finally, under EOG's position, an application for compulsory pooling could not be filed while any issue is pending before BLM, including an application for permit to drill ("APD"). This position is directly contrary to the Division's ordinary practice, which regularly allows compulsory pooling applications to be heard while approval of a federal APD is pending.

For all of these reasons, EOG's motion to dismiss should be denied.

Respectfully submitted,

**MONTGOMERY & ANDREWS, P.A.**

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*Attorneys for Titus Oil & Gas Production, LLC*

### **CERTIFICATE OF SERVICE**

I hereby certify that on February 13, 2020, a true and correct copy of the foregoing ***Pre-Hearing Statement*** was served by electronic mail on the following counsel of record:

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*/s/Sharon T. Shaheen*  
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Sharon T. Shaheen