

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

**APPLICATIONS OF NOVO OIL AND GAS NORTHERN
DELAWARE, LLC FOR COMPULSORY POOLING, EDDY
COUNTY, NEW MEXICO.**

CASE NOS. 21037-21040

NOVO's CLOSING STATEMENT

Novo Oil and Gas Northern Delaware, LLC ("Novo") submits this Closing Statement as requested by the Examiners at the February 20th hearing in these consolidated matters.

A. Novo's Acreage at Issue.

In these consolidated cases, Novo seeks approval of four standard horizontal well spacing units in the Bone Spring and Wolfcamp formations underlying the W/2 of Sections 10 and 15, Township 23 South, Range 29 East, NMPM, Eddy County, New Mexico. *See* Novo Exhibits 7, 9, 10 and 11. **Novo owns 90% of the working interest in the subject acreage**, with Titus Oil & Gas ("Titus") owning the remaining 10%. *See* Novo Exhibit 2. An ownership depth severance exists in the Bone Spring formation at 7,838 feet underlying the S/2 SW/4 of Section 10 and this 80-acres is currently dedicated to the USP Fee No. 3, a laydown horizontal well in the First Bone Spring interval operated by COG Operating, LLC. *See* Novo Exhibits 5, 6 and 7. Novo's pooling applications address this existing horizontal well and the ownership depth severance, and further provide for the efficient and effective development of the subject acreage with minimal surface disturbance. *See* Novo Exhibits 3, 7, 9, 10 and 11; *see generally*, Testimony of Brandon Patrick (Tr. at pp. 4-65) and Michael Hale (Tr. at pp. 66-108).

B. Titus' Limited Concerns with Novo's Pooling Applications.

Titus initially filed competing pooling applications for the subject acreage but withdrew these applications at the hearing. Tr. at p. 3. Accordingly, offered no objection to the size of the

proposed Bone Spring or Wolfcamp spacing units, the orientation of the spacing units, the pooling of its interests in the spacing units or the naming of Novo as the operator of the spacing units. At the hearing, Titus offered no evidence to dispute the initial well costs. Tr. at p. 118. Instead, Titus merely expressed concern with the number of initial wells Novo proposed in the Wolfcamp spacing unit. See Novo Ex. 11 (Novo's spacing unit); Tr. 122 (Titus' landman). Titus offered no specific concerns with the number of initial wells proposed for the Bone Spring spacing units. See Novo Exhibits 7, 9 and 10 (Novo's spacing units); Tr. 122-23 (Titus' landman).

C. Titus' Limited Evidence on the Proposed Wolfcamp Wells.

Titus' landman testified that he informed Novo that Titus would not sign a Joint Operating Agreement for the W/2 of Sections 10 and 15 unless Novo agreed to "cap" the number of wells in the Wolfcamp formation by not drilling in the Wolfcamp XY interval and limiting development of the Wolfcamp A interval to two wells. Tr. at p. 122-123. With respect to the three wells Novo proposed for the Wolfcamp B zone, Titus' landman testified: "I don't think that in theory that the three --- that we're completely opposed to three wells in the Wolfcamp B." Tr. at p. 127-128. Titus' landman left it to the geologist to explain Titus' concerns with Novo's proposed wells in the Wolfcamp formation. Tr. at p. 136-138.

Titus' geologist testified that "right now, without all of the data and putting it all in context, I could not tell you which specific well numbers I would recommend not participating in." Tr. at p. 158. When asked which wells Novo should not drill, Titus' geologist suggested that two of the three wells proposed by Novo for the upper Wolfcamp XY interval (Wells 211H and 215H) should be eliminated and that one of the three wells Novo proposed for the lower Wolfcamp B interval be eliminated. See Novo Ex. 14 (Novo Well Proposals); Tr. at p. 159-162.¹ However, Titus' geologist

¹ This testimony conflicted with Titus' landman, who informed Novo that Titus would not sign a JOA unless Novo agreed to not drill in the Wolfcamp XY interval, limited development of the Wolfcamp A interval to two wells and expressed no concern with three Wolfcamp B wells. Tr. at p. 122-123; Tr. at p. 127-128.

admitted Titus has not drilled any horizontal wells in New Mexico (Tr. at 152) and that his opinion as to the number of appropriate wells for the Wolfcamp intervals differ from that of XTO Energy and Novo, operators who have drilled Wolfcamp horizontal wells in this area. Tr. at 154. Titus' geologist further clarified that he required "more time" and "more collaboration" before he could make any definitive statement on the wells Novo should eliminate:

18 So for me to just look at their image and just
19 start taking -- moving wells around or taking wells out and
20 saying with 100 percent confident right now while I'm
21 sitting in this seat where I will drill those other than
22 what we have proposed, I would need more time.

Tr. at p. 161.

10 I would want -- so basically, we have more data
11 today than we did in July. And the answer to that question
12 would, would require more collaboration with me and my --
13 the other disciplines.

Tr. at p. 162. After it was revealed Novo's proposed wells for the Wolfcamp formation in the W/2 of Sections 10 and 15 mirror the Wolfcamp wells proposed by Titus in the E/2 of Sections 10 and 15, Titus' counsel and its witness suddenly clammed up and refused to address the number of wells Titus believes should be drilled in the Wolfcamp today. Tr. at 161-166.

D. Titus Has Failed to Meet its Heavy Burden of Proof.

Following the receipt of evidence at public hearings, the New Mexico Oil Conservation Commission applied its expertise and determined not to limit the number of horizontal wells that may simultaneously produce from the portion of a pool underlying a spacing unit, leaving it up to the operator to initially determine the number of wells necessary to drain a particular interval. *See* NMAC 19.15.16.15.E(3). The Commission made this decision conscious of its statutory duty to prevent waste as defined in the Oil and Gas Act. *See* NMSA 1978, §§ 70-2-3; 70-2-11.

Accordingly, the Division is not authorized under a pooling order to limit the number of wells an operator may drill in a horizontal spacing unit unless it is demonstrated by clear and

convincing evidence that a certain number of wells will cause underground waste of oil or gas. Titus does come close to meeting this heavy burden. Titus merely offered vague opinions that admittedly required more analysis, that are contrary to what experienced operators have determined necessary to efficiently and effectively drain intervals in the Wolfcamp formation, and which conflict with what Titus proposed for developing the Wolfcamp formation in offsetting acreage.

Novo owns 90% of the subject acreage and therefore will absorb at least 90% of the risk associated with drilling each of its proposed wells. Titus can use its concerns and opinions to elect, on a well-by-well basis, whether to participate in that risk with its 10% interest. Titus' quibbling at the hearing over the number of wells that should be drilled in the Wolfcamp formation is completely insufficient to deny Novo's pooling applications.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2020, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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