

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

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

APPLICATION OF RIDGE RUNNER RESOURCES LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

CASE NOS: 20106, 20107
20717, 20718

APPLICATION OF MARATHON OIL PERMIAN LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.

CASE NOS: 20840 - 20848

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

FEBRUARY 20, 2020

SANTA FE, NEW MEXICO

This matter came on for hearing before the New Mexico Oil Conservation Division, EXAMINERS FELICIA ORTH, LEONARD LOWE and DYLAN COSS on Thursday, February 20, 2020, at the New Mexico Energy, Minerals, and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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A P P E A R A N C E S

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1	I N D E X	
2	CASES CALLED	03
3	UPDATE OF CASE	03
4	REPORTER CERTIFICATE	20
5	(No exhibits submitted.)	
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1 HEARING EXAMINER ORTH: Let me call for
2 appearances then in the Ridge Runner and Marathon
3 applications.

4 MS. HARDY: Good morning. Dana Hardy with the
5 Santa Fe office of Hinkle Shanor on behalf of Ridge Runner
6 Resources Operating LLC.

7 MR. MOELLENBERG: Good morning. Dal Moellenberg
8 from Gallagher and Kennedy in Santa Fe on behalf of Foran
9 Oil Company, an intervenor.

10 MR. FELDEWERT: Good morning, Michael Feldewert
11 with the Santa Fe office of Holland & Hart appearing on
12 behalf MRC Explorers, MRC Spiral and MRC Delaware. We have
13 an interest in Section 2.

14 HEARING EXAMINER ORTH: Okay. Thank you.

15 MR. BRUCE: Jim Bruce representing Burnett Oil
16 and Portson Oil. I believe they are now officially out, but
17 I need to verify that with my clients.

18 HEARING EXAMINER ORTH: Okay. Thank you.

19 MR. RANKIN: Madam Examiner, Deana Bennett with
20 the law firm of Modrall Sperling is on her way. She is
21 stuck in traffic. She is in these cases as well.

22 HEARING EXAMINER ORTH: So we should presumably
23 wait for her. All right. Does she say how long she'll be?

24 MR. RANKIN: She didn't say.

25 HEARING EXAMINER ORTH: All right. So visually,

1 these competing claims are really interesting. These visual
2 representations, this is for Bone Spring and this is for
3 Wolfcamp showing the overlapping -- overlapping claims.
4 Would it help if I went through just the basic provisions of
5 the prehearing order while we wait for Deana?

6 (Discussion off the record.)

7 HEARING EXAMINER ORTH: Eric suggested we go
8 through the affidavit cases first. We have two of those,
9 and I do not believe Ms. Bennett is involved in either one
10 of them. And this would be 16 and 17 involving Mr. Bruce
11 and Holland & Hart. I guess, Mr. Rankin, would you like to
12 proceed that way, Mr. Bruce?

13 MR. BRUCE: Sure.

14 (Pause in proceeding.)

15 HEARING EXAMINER ORTH: Do we have Ms. Bennett?

16 MS. BENNETT: I know again the accident caused a
17 lot of snarl.

18 HEARING EXAMINER ORTH: So let's return then to
19 matters 1 through 14, and again these are the applications
20 by Ridge Runner Resources and Marathon relating to a variety
21 of wells, Gladiator, Warrior, Shake-n-Bake, Cerberus, Trojan
22 Horse and Cerberus again. We had appearances from, I
23 believe, everyone other than you, Ms. Bennett.

24 MS. BENNETT: Deana Bennett on behalf of Marathon
25 Oil Permian LLC.

1 HEARING EXAMINER ORTH: All right. Thank you.

2 With that, let me ask again that we proceed to
3 the update, and Ms. Bennett, I mentioned we had some
4 interesting visual representations for the competing claims
5 with those wells, and I do have two draft prehearing orders.

6 We had already heard from Ms. Luck that two
7 cases I had originally included on the caption for the
8 Wolfcamp formation 20374 and 20375, Ms. Luck stated that
9 they weren't truly competing, that those applications were
10 dismissed and refiled and then will not be part of the
11 update this morning.

12 So going to proceed through the basic provisions
13 of the prehearing order in one for Wolfcamp, one for Bone
14 Spring. In each we set the date and time of hearing. In
15 each, the order of presentation is set out. In Wolfcamp it
16 seemed to make the most sense that Ridge Runner would go
17 first and then Marathon and in Bone Spring the same thing.

18 And then in addition to the testimony and
19 exhibits each party might desire to present regarding the
20 applications, each party will provide testimony as to these
21 facts first drawn from these two matters, one of them 1997
22 and one of them from 2017. We can share those cases with
23 you, if you would like.

24 A is a description and comparison of the geology
25 of the competing well locations. The potential of the

1 competing prospects to efficiently recover the oil and gas
2 reserves.

3 B is a description and comparison of the acreage
4 used and stranded by the competing prospects.

5 C is a description and comparison of the risk
6 associated with the competing proposal.

7 D, a description of the ability of each applicant
8 to prudently operate the property and prevent waste.

9 E, a description of the negotiations by each
10 applicant prior to filing the application.

11 F, a description of each applicant's well cost
12 estimates and other operational costs.

13 And G is a description of the mineral interests
14 owned by each applicant. And then there's a statement that
15 the OCD guidelines for presentation of cases by witnesses
16 shall be applicable. I know you all are generally familiar
17 with those guidelines. So knowing that that's sort of the
18 prehearing order that I would like to enter as to each
19 formation, who is going to begin the update?

20 MS. BENNETT: Madam Hearing Examiner, at the
21 beginning you might have said that the proposed form of
22 order would set the date and time for the hearing. Has that
23 already been determined by the Division, or is that
24 something we will be able to discuss?

25 HEARING EXAMINER ORTH: No. That's what we want

1 to do with all of them.

2 MS. BENNETT: Okay, great. I'm happy to give the
3 update --

4 HEARING EXAMINER ORTH: Sit or stand if you wish.

5 MS. BENNETT: I'm happy to give the update from
6 Marathon perspective.

7 HEARING EXAMINER ORTH: All right.

8 MS. BENNETT: Which is that Marathon tends to and
9 does want to take these cases to hearing. While there are a
10 number of cases at issue here, it really boils down to, as
11 Madam Hearing Examiner pointed out, two sort of separate
12 cases which are cases involving Sections 27 and 34, and
13 cases involving Sections 35 and 2.

14 Marathon and Ridge Runner have submitted
15 competing proposals for those sections, and the time is ripe
16 to resolve the competing applications. And of course the
17 factors that the Hearing Examiner laid out today are the
18 factors that we would intend to demonstrate at the hearing.

19 And we have had initial conversations as between
20 Marathon Ridge Runner and Foran Oil about potential stakes
21 for a contested hearing or a special docket date, and as you
22 may have seen from looking through the pleadings in this
23 matter, Ridge Runner initially filed their cases, I think,
24 in 2018, November of 2018, and Marathon filed its competing
25 cases, original competing cases in December of 2018.

1 So these cases have been on the docket for some
2 time, and in August 2019 Foran Oil asked for a motion to
3 continue which was granted, and then the cases were set
4 again for a special docket in November 2019. And again
5 Foran Oil asked for a motion to continue which Marathon
6 reluctantly agreed to with the goal of having a date set for
7 hearing in early -- in January, which was not a possibility
8 for the Division.

9 So Marathon's goal, even though we have agreed
10 continuances is to have the cases be heard and heard
11 expeditiously. And so our intent would be to have a hearing
12 at the end of March. I think we talked about March 26 and
13 27 as a potential hearing date. And so it's our --
14 Marathon intent and desire to have the cases set for hearing
15 in late March.

16 HEARING EXAMINER ORTH: Okay, thank you. Ms.
17 Hardy?

18 MS. HARDY: Thank you. On behalf of Ridge Runner
19 we agree with that proposal. Ridge Runner would also like
20 to have these cases heard expeditiously, hopefully by the
21 end of March, and it does look like we need to go to
22 hearing, and we agree with the proposed March 26 and 27
23 dates.

24 HEARING EXAMINER ORTH: Do you believe that we
25 would be able to finish it in two days?

1 MS. BENNETT: Yes.

2 MS. HARDY: Yes.

3 MS. BENNETT: Yes. As I mentioned, although
4 there are a number of cases involved, it's really just --
5 the testimony will be the same for the Wolfcamp and Bone
6 Spring cases likely for 24 -- or for 27 and 34 -- excuse
7 me -- and for 35 and 2. So really it's -- there are a lot
8 of cases, but that's because there are a number of different
9 sizes of spacing units being proposed.

10 So even though there are a number of cases, it
11 really relates to two-mile laterals, each -- Marathon and
12 Ridge Runner each proposed two-mile laterals, and Marathon
13 Ridge Runner have each proposed two mile laterals in the
14 Wolfcamp and Bone Spring formations in those four sections.

15 So although it appears like there is a lot --
16 there are a lot of cases, but it's not actually that complex
17 because the cases, when you boil it down to it, it just
18 involves competing applications for two sections.

19 HEARING EXAMINER ORTH: All right. Thank you for
20 all of that.

21 Mr. Moellenberg, do you have anything to add?

22 MR. MOELLENBERG: Yes, Madam Hearing Examiner.
23 Foran Oil company is involved in this case because it claims
24 a large interest in Section 35, both an ownership interest
25 and an overriding royalty interest. That section is kind of

1 in the heart of your map and the competing proposals.

2 There's a title dispute over that, which remains
3 pending. Acknowledging that the Division doesn't address
4 title disputes and that would not be the subject of the
5 hearing, Foran Oil continues to believe it's premature to do
6 this hearing while that title dispute remains out there
7 really because of the uncertainties, and you know, what
8 would happen with regard to any order issued, particularly
9 if the title dispute is eventually resolved in Foran Oil's
10 favor.

11 So for that reason, Foran Oil would ask the
12 hearing examiners to set this case for another status
13 conference, a couple, three weeks down the road rather than
14 set ago hearing date now, and that would allow this case to
15 proceed with more certainty and finality to allow the
16 additional time for the title disputes to be resolved.

17 HEARING EXAMINER ORTH: All right. Thank you for
18 that. And we will ask for a response. Let me first ask Mr.
19 Feldewert. What is your position on the proposal?

20 MR. FELDEWERT: MRC does not have a position.

21 HEARING EXAMINER ORTH: Okay, thank you. And
22 Mr. Bruce?

23 MR. BRUCE: No position.

24 HEARING EXAMINER ORTH: Okay, your response.

25 MS. BENNETT: As Mr. Moellenberg just noted,

1 Foran's interest is limited to Section 35. So of the four
2 sections that we are talking about, Foran may have an
3 interest in one of the four sections. And so that limited
4 potential interest shouldn't hold up the pooling cases that
5 Ridge Runner and Marathon have submitted because it only
6 applies to one section out of the four, so it only actually
7 applies to one set of the cases, not all of the cases.

8 And on top of that, as Mr. Moellenberg
9 acknowledged, the Division doesn't have jurisdiction over
10 title issues, so this is really, in Marathon opinion, what's
11 at issue here is the competing proposal between Ridge Runner
12 and Marathon and that needs to be resolved irrespective of
13 the title issue. And the title issue should not hold up
14 these cases from going to hearing.

15 Marathon has other parties that it needs to pool,
16 as I'm sure Ridge Runner does as well. So Foran is
17 certainly an interested party here, but isn't the only party
18 that either Marathon or Ridge Runner are seeking to pool.

19 On top of that, as I mentioned at the outset,
20 Foran asked for more time in August, so six months ago. And
21 then Foran asked for more time in November, three months
22 ago. So we need to -- and there has been no progress as far
23 as I know in terms of confirming or not confirming Foran's
24 potential interest in Section 35. So to continue to just
25 kick the can down the road while we wait for Foran to figure

1 this out is not efficient and not warranted under the
2 circumstances when Foran has had six months to figure out
3 its title issue with respect to Section 35.

4 HEARING EXAMINER ORTH: Thank you. Ms. Hardy.

5 MS. HARDY: I agree, given the amount of time
6 these cases have been pending, the time Foran has had to
7 resolve the title issue, at this point it makes sense to go
8 forward, especially when we don't have an indication of when
9 the title issue will be resolved.

10 HEARING EXAMINER ORTH: Okay, thank you. Mr.
11 Lowe, do you have any questions?

12 EXAMINER LOWE: Has Foran Oil acknowledged the
13 what progress they have made in this whole issue or any
14 progress at all?

15 MR. MOELLENBERG: Mr. Hearing Examiner, I'm not
16 directly involved in those discussions. My understanding is
17 that other counsel has been in touch with Marathon and Ridge
18 Runner about the title issues, but I can't speak to the
19 details of that.

20 I would note one thing which is, at this point in
21 time with regard to Foran Oil's interest that's the subject
22 of the title dispute, it has not been noticed by Marathon or
23 Ridge Runner, and Foran's position is that that interest
24 actually would not be force pooled the way the case is
25 currently set.

1 So that would probably have to be dealt with
2 later at some point, but I just wanted to note that. I
3 think Ms. Bennett indicated that Foran's interest would be
4 force pooled. There may be some other minor interests in
5 some of the other sections, but at least this half section
6 would actually -- the way the case is postured right now,
7 would not be force pooled.

8 EXAMINER LOWE: And your concern is for the
9 entire Section 35?

10 MR. MOELLENBERG: I'm sorry, the W/2 of Section
11 35.

12 EXAMINER LOWE: The W/2.

13 MR. MOELLENBERG: Yes.

14 EXAMINER LOWE: So that would concern only cases
15 20845 and 20105 then, two cases.

16 MR. MOELLENBERG: I think, also 20846 and 20718.
17 I believe those cases will were involved.

18 EXAMINER LOWE: 20818?

19 MR. MOELLENBERG: 20718.

20 EXAMINER LOWE: As Ms. Bennett indicated, is it
21 overall six months, or has it been six months and on top of
22 that three months overall?

23 MR. MOELLENBERG: I believe, if I'm recalling
24 right, the cases were initially set in August or
25 September -- at least the initial motion for a continuance

1 was in August. Then there was an agreed motion for a
2 continuance in November, so --

3 EXAMINER LOWE: To make it overall six months
4 then.

5 MR. MOELLENBERG: Yeah, I think that's fair to
6 say.

7 EXAMINER LOWE: Okay. That's all the questions I
8 have. Thank you.

9 MS. BENNETT: May I briefly comment on that
10 issue?

11 HEARING EXAMINER ORTH: Yes.

12 MS. BENNETT: I don't have the notices and
13 information in front of me today, but what I can tell you is
14 that Marathon did submit proposals to Foran Oil for the
15 cases that are currently set before the Hearing Examiners,
16 and any alleged impropriety of notice has been cured by the
17 fact Mr. Moellenberg has participated in the cases and has
18 actual notice of the cases as does Foran Oil.

19 So any impropriety, and if there was any, which I
20 can't confirm or deny sitting here right now, I wasn't
21 prepared to talk about notice this morning, but Foran oil
22 has been participating in these cases since August, so for
23 more than six months, so any notice defect would have been
24 cured by Foran Oil's actual notice and participation in the
25 cases.

1 HEARING EXAMINER ORTH: All right.

2 Mr. Moellenberg?

3 MR. MOELLENBERG: Yes, Madam Hearing Examiner, if
4 I could speak to that briefly. The issue isn't really
5 impropriety of notice but effect of notice or lack of notice
6 in terms of how Foran issue -- Foran Oil's interests or
7 claimed interest would be addressed in the outcome of this
8 case. So just to clarify.

9 HEARING EXAMINER ORTH: All right. Thank you for
10 clarifying. I would like to set this for hearing then based
11 on everything that I have heard. March 26 and 27 are both
12 entirely open, and we can start in here at 8:15 if that's
13 your -- if that's your pleasure. I believe we will probably
14 quit at 5 each day.

15 MS. BENNETT: Madam Hearing Examiner, just one
16 point of clarification. I leave it to the Examiner's
17 discretion, of course, but given that the witness -- the
18 testimony for the geology for Bone Spring and Wolfcamp may
19 be the same for 27 and 34, as opposed to 35 and 2, I wonder
20 if it makes more sense to have the 27 and 34 cases heard
21 together, Wolfcamp and Bone Spring, and then the 35 and 2
22 cases heard together, Wolfcamp and Bone Spring.

23 But again, I leave that up to the Division's
24 discretion. Just in terms of efficiency it might be more
25 efficient if we are, instead of doing Wolfcamp and Wolfcamp,

1 we are doing the full sections together. But if the orders
2 are already prepared, I would rather stick with prepared
3 orders than have any further delay.

4 HEARING EXAMINER ORTH: We can definitely edit
5 the orders. Do you have any questions? All right. So we
6 would like to have a little more discussion around that, but
7 I think that's a good proposal.

8 MS. BENNETT: And whatever the Examiners
9 ultimately decide is super great.

10 HEARING EXAMINER ORTH: Okay. Do you have
11 questions about that, Mr. Lowe?

12 EXAMINER LOWE: Can you verbalize what cases,
13 what you -- what order you would like everything.

14 MS. BENNETT: Sure, so assuming we are starting
15 with Ridge Runner cases, the Ridge Runner cases covering
16 Section 27 and 34 are Case Numbers 20106.

17 EXAMINER LOWE: 20106.

18 MS. BENNETT: 20107, those are the two Wolfcamp
19 cases. The Ridge Runner case for the Bone Spring is 20717.
20 Then turning to the Marathon cases for Section 27 and 34, we
21 have Case Number 20841, 20843. Those are the two Wolfcamp
22 cases.

23 And then Marathon's Bone Spring cases are 20840
24 20842, 20844 and 20848. And so those are the cases that
25 would be involved in the Sections 27 and 34.

1 Turning to Sections 35 and 2, the Ridge Runner
2 Wolfcamp case is 20105. The Ridge Runner Bone Spring case
3 is 20718. The Marathon Wolfcamp case is 20845. And the two
4 Marathon Bone Spring cases are 20846 and 20847.

5 MR. AMES: Deana, can you repeat the sections for
6 the two sets of cases. The first was 27 and --

7 MS. BENNETT: 34.

8 MR. AMES: 34. And the second was 35 and 2?

9 MS. BENNETT: That's right, and 2 was in a
10 different township and range, but I don't have that with me.

11 MR. AMES: That's all right.

12 MS. BENNETT: I see on your map that you have
13 some stand ups and some lay downs, and I'm assuming that the
14 lay downs are the WPX cases because both Ridge Runner and
15 Marathon are proposing stand up at this point.

16 HEARING EXAMINER ORTH: And the WPX matters have
17 been dismissed and they will be --

18 MS. BENNETT: I don't know that they have been
19 dismissed, per se, just continued.

20 HEARING EXAMINER ORTH: He said dismissed and
21 refiled.

22 MR. FELDEWERT: I think what happened was their
23 cases were refiled. Our cases were not dismissed and
24 refiled -- just the proposed plan to avoid the acreage that
25 WPX seeks to be pooled.

1 HEARING EXAMINER ORTH: Okay. Thank you, Ms.
2 Luck.

3 MS. LUCK: That's it.

4 MS. BENNETT: Marathon did dismiss two cases, but
5 they don't even appear on any of the materials that we have
6 been talking about today.

7 HEARING EXAMINER ORTH: Okay, thank you.

8 MS. BENNETT: Thank you.

9 HEARING EXAMINER ORTH: So we will take all of
10 this under advisement and issue one or two prehearing
11 orders.

12 MS. BENNETT: Thank you very much, and we'll plan
13 on preparing and having our witnesses present on March 26
14 and 27 beginning at 8:15.

15 HEARING EXAMINER ORTH: Thank you.

16 MS. BENNETT: Thank you very much.

17 (Status update concluded.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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6 I, IRENE DELGADO, New Mexico Certified Court
7 Reporter, CCR 253, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that the
9 foregoing pages are a true and correct transcript of those
10 proceedings that were reduced to printed form by me to the
11 best of my ability.

12 I FURTHER CERTIFY that the Reporter's Record of
13 the proceedings truly and accurately reflects the exhibits,
14 if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither employed by
16 nor related to any of the parties of attorneys in this case
17 and that I have no interest in the final disposition of this
18 case.

19 Dated this 20 day of February 2020.

20

21

Irene Delgado, NMCCR 253
License Expires: 12-31-20

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