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

APPLICATIONS OF PERMIAN RESOURCES OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO. **CASE NOS. 25283, 25284**

PERMIAN RESOURCES OPERATING, LLC'S CLOSING BRIEF

Permian Resources Operating, LLC ("PR") submits the following Closing Brief as requested during the May 27, 2025 hearing.

INTRODUCTION

In these cases, PR seeks to pool uncommitted interests in the Bone Spring formation underlying 640-acres located in the S/2 equivalent of irregular Section 7 and Section 8, Township 20 South, Range 27 East, Eddy County, New Mexico. The acreage will be divided into two spacing units, which will be dedicated to the Fiero 7 Fed Com 134H and Fiero 7 Fed Com 133H wells. MRC Permian Company and MRC Delaware Resources (collectively referred to as "MRC") objects to PR's applications on the ground that the Fiero development overlaps with acreage in the SE/4 of Section 8 that MRC controls under a joint operating agreement ("JOA").

MRC's argument fails because Division precedent establishes that JOAs do not preclude pooling, particularly when the proposed horizontal spacing unit only partially overlaps a JOA contract area. Further, the Division's factors that apply to the evaluation of competing development plans weigh in PR's favor. For these reasons, Permian Resources' applications should be granted.

ARGUMENT

1. MRC's JOA does not defeat PR's applications.

MRC contends that PR's applications should be denied because the proposed Fiero development overlaps with MRC's potential Becky development in the SE/4 of Section 8. MRC

argues that because the SE/4 of Section 8 is committed to a JOA under which MRC owns an interest and is designated operator, MRC has a right to develop this acreage. The Division previously rejected this exact argument in Order No. R-14140, which was issued in relation to the *Application of Matador Production Company for a Non-Standard Spacing and Proration Unit and Compulsory Pooling, Lea County, New Mexico*, Case No. 15433.

In Case No. 15433, Matador Production Company ("Matador") sought to pool a 160-acre, non-standard horizontal spacing unit. Nearburg Exploration Company, L.L.C. ("Nearburg") opposed Matador's application on the ground that an existing JOA, to which both Matador's and Nearburg's interests were subject, precluded pooling because it covered part of the acreage Matador sought to pool, along with other lands. Nearburg, like MRC in this proceeding, did not file competing applications and relied on the JOA as the basis for prohibiting Matador's pooling applications. *See* Order No. R-14140 at ¶ 7. Further, just like the MRC JOA covers many acres but only overlaps with PR's development in the SE/4 of Section 8 – a small portion of the total 640 acres Permian Resources seeks to pool – the Nearburg JOA overlapped with only a portion of the total acreage Matador sought to pool. *See id*. at ¶ 12. Finally, both the Nearburg and MRC JOAs contemplate vertical wells rather than the horizontal well development that Matador and PR propose here. *See id*. at ¶ 13.

In Case No. 15433, the Division determined that Nearburg's vertical well JOA did not control pooling for horizontal development. *See id*. at ¶¶ 14, 15. The Division found that the Nearburg JOA only governed what the parties would own from production of oil and gas "*from the contract area*." *Id*. at ¶ 14 (emphasis added). However, Matador proposed to drill a horizontal well, which would be completed in acreage both within and outside of the contract area. *Id*. As a result, the Division held that absent "an agreement as to how production from the proposed

horizontal well is to be divided between the lands within and without the defined contract area, the JOA does not constitute an agreement of the parties to pool their interests in such production, and accordingly does not preclude compulsory pooling." *Id*. at ¶ 17.

In the present cases, the Division heard evidence that PR seeks to pool 640-acres underlying the S/2 of irregular Section 7 and Section 8. A small portion of this acreage overlaps with MRC's JOA. As MRC's witnesses conceded at hearing, the MRC JOA was executed on February 7, 1964, long before horizontal well development was contemplated. *See* MRC's Exhibits A-2, A-5.

Division precedent has distinguished between vertical and horizontal well JOAs and held that parties to a vertical well JOA have not committed their interest to a proposed horizontal spacing unit that only partially overlaps a vertical JOA contract area. For this reason, MRC's JOA does not preclude PR from pooling the entirety of the S/2 of irregular Section 7 and Section 8 and should not be considered in evaluating the parties' ownership interests. MRC, like Nearburg in Case No. 15433, would be entitled to its proportionate contractual interest in the SE/4 of Section 8 within the entirety of the 640-acre Fiero spacing unit.

2. <u>The Division's competing development plan factors demonstrate that PR's applications should be approved.</u>

In evaluating competing development plans, the Division considers the following factors:

1. A comparison of geologic evidence presented by each party as it relates to the proposed well location and the potential of each proposed prospect to efficiently recover the oil and gas reserves underlying the property.
2. A comparison of the risk associated with the parties' respective proposal for the exploration and development of the property.
3. A review of the negotiations between the competing parties prior to the applications to force pool to determine if there was a "good faith" effort.
4. A comparison of the ability of each party to prudently operate the property and, thereby, prevent waste.

5. A comparison of the differences in well cost estimates (AFEs) and other operational costs presented by each party for their respective proposals.
6. An evaluation of the mineral interest ownership held by each party at the time the application is heard.
7. A comparison of the ability of the applicants to timely locate well sites and to operate on the surface (the "surface factor").[1]

Although MRC has not filed competing pooling applications, the Division must evaluate the development plan put forth by MRC at hearing in comparison to PR's proposals. *See* Order No. R-21416-A at ¶ 9, n.1. All of these factors weigh heavily in PR's favor.

The Division's "first task is to determine which development plan will most efficiently develop the subject acreage, prevent waste, and protect correlative rights." *See* Order No. R-21800, ¶ 15. To begin with, MRC does not dispute PR's geologic evidence and agrees that this acreage is best developed by laydown horizontal wells. There is little risk associated with PR's proposed development plan. Unlike MRC, PR has successful developments in this area and currently has six Bone Spring wells producing in the adjacent spacing unit. In addition, PR has actively pursued its development plan since it acquired the acreage in May of 2024 and has submitted APDs to the BLM, obtained NEPA approval, conducted an on-site with the BLM, and submitted well pad and central tank battery plans. In contrast, MRC has not taken any action to develop its acreage in the SE/4 of Section 8 or the SW/4 of Section 9 despite having owned it for years. *See* PR Exh. A-12.

PR also demonstrated it has diligently negotiated with MRC in good faith. MRC requested that PR move the surface locations for its wells to Section 7. PR extensively investigated this option and determined it was unable to do so because of karsting. PR has oil, gas, and water takeaway agreements in place and is ready to commence operations as soon as APDs are approved. PR's offset developments will allow PR to minimize surface disturbance by creating new facilities

[1] *See, e.g.,* Order No. R-20223.

and flowlines at locations adjoining existing batteries and operations. This reduction in surface facilities prevents surface, environmental, and economic waste.

On the other hand, the various hypothetical development plans put forth by MRC would strand BLM acreage in the S/2 SE/4 and NE/4 SE/4 of Section 9. MRC admitted that a prudent operator would not propose a development plan that would result in waste by stranding federal lands. PR presented evidence of its well cost estimates to develop the Fiero spacing unit, while it is unknown what any of the potential MRC development plans might cost. In addition, if PR is unable to produce its wells as proposed, its leases will terminate and it will be unable to develop the Fiero wells, which would result in waste.

With respect to working interest control, most parties to MRC's vertical well JOA have signed PR's superseding horizontal well JOA, and MRC agrees it is standard practice for operators to sign superseding JOAs. Because of the superseding JOA, MRC and PR have almost equal contractual interest ownership within the SE/4 of Section 8, with MRC at approximately 26% and PR with approximately 24.7%. *See* PR Exh. A-13. This difference in working interest is not significant enough to weigh in either parties' favor. *See* Order No. R-21834.

As the Commission has stated, the most important consideration in awarding operations to competing interest owners is geologic evidence as it relates to well location and recovery of oil and gas and associated risk." Order R-10731-B, ¶ 23(f). PR has presented undisputed evidence regarding a real development plan that it is ready to implement (and must implement to preserve its leases), while MRC has only presented hypothetical development options that would strand acreage and are based on a superseded JOA. Accordingly, the Division should grant PR's compulsory pooling applications.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2025, I caused a true and correct copy of the foregoing Motion for Continuance to be served upon the following counsel of record:

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