

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

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**CASE NO. 16313
ORDER NO. R-20312**

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR A NON-STANDARD
GAS SPACING AND PRORATION UNIT
AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**CASE NO 16234
ORDER NO. R-20295**

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR A NON-STANDARD
GAS SPACING AND PRORATION UNIT
AND COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**CASE NO 16235
ORDER NO. R-20296**

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**CASE NO. 16386
ORDER NO. R-20313**

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**CASE NO. 16387
ORDER NO. R-20314**

**APPLICATION OF MEWBOURNE OIL
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

**CASE NO. 16388
ORDER NO. R-20315**

**MOTION TO STAY ORDER NOS. R-20312, R-20295,
R-20296, R-20313, R-20314, and R-20515**

Marathon Oil Permian, LLC ("Marathon") hereby moves for an order staying the following

orders:

- Order No. R-20312, issued January 16, 2019 in Case No 16313;

- Order No. R-20295, issued on December 31, 2018 in Case No. 16234;
- Order No. R-20296, issued on December 31, 2018 in Case No. 16235;
- Order No. R-20313, issued January 16, 2019 in Case No. 16386;
- Order No. R-20314, issued January 16, 2019 in Case No. 16387; and
- Order No. R-20515, issued January 16, 2019 in Case No. 16388.

In support of this motion, Marathon states as follows:

1. Mewbourne Oil Company (“Mewbourne”) filed its application in Case No. 16313 on June 26, 2018 seeking (1) a horizontal spacing unit comprising of 480 acres (more or less) within the Purple Sage; Wolfcamp Gas Pool (Pool code 98220) and all other pools hereafter defined within the Wolfcamp formation in the SE/4 of Section 21 and the E/2 of Section 28, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico and (2) to pool uncommitted interests within the unit.

2. Mewbourne filed its application in Case No. 16234 on May 29, 2018 seeking (1) a horizontal spacing unit comprising of 480 acres (more or less) within the Purple Sage; Wolfcamp Gas Pool (Pool code 98220) and all other pools hereafter defined within the Wolfcamp formation in the NE/4 of Section 21 and the E/2 of Section 16, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico, (2) to pool uncommitted interests within the unit, and (3) for approval of the above described lands as a non-standard spacing and proration unit.

3. Mewbourne filed its application in Case No. 16235 on May 29, 2018 seeking (1) a horizontal spacing unit comprising of 480 acres (more or less) within the Purple Sage; Wolfcamp Gas Pool (Pool code 98220) and all other pools hereafter defined within the Wolfcamp formation in the NW/4 of Section 21 and the W/2 of Section 16, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico and (2) to pool uncommitted interests within the unit.

4. Mewbourne filed its application in Case No. 16386 on August 8, 2018 seeking (1) a horizontal spacing unit comprising 240 acres (more or less) within the Willow Lake; Bone Spring Pool (Pool code 64450) and all other pools hereafter defined within the Bone Spring formation in the W/2 NE/4 of Section 21 and W/2 E/2 of Section 16, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico and (2) to pool uncommitted interests within the unit.

5. Mewbourne filed its application in Case No. 16387 August 8, 2018 seeking (1) a horizontal spacing unit comprising 240 acres (more or less) within the Willow Lake; Bone Spring Pool (Pool code 64450) and all other pools hereafter defined within the Bone Spring formation in the E/2 NE/4 of Section 21 and E/2 E/2 of Section 16, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico and (2) to pool uncommitted interests within the unit.

6. Mewbourne filed its application in Case No. 16388 on August 7, 2018 seeking (1) a horizontal spacing unit comprising of 480 acres (more or less) within the Purple Sage; Wolfcamp Gas Pool (Pool code 98220) and all other pools hereafter defined within the Wolfcamp formation in the NE/4 of Section 21 and the E/2 of Section 16, Township 24 South, Range 28 East, NMPM, Eddy County, New Mexico and (2) to pool uncommitted interests within the unit.

7. Marathon owns significant working interests within the units described above.

8. After the applications were filed by Mewbourne, Marathon expressed several objections to Mewbourne's plan of development.

9. In order to satisfy Marathon's objections prior to the Division hearing on these cases, Mewbourne entered into a "deal in principal" with Marathon, and the parties negotiated a trade of acreage. The Division held a hearing on all six of these cases on October 18, 2018 and during this hearing Mewbourne's landman, Mr. Tyler Jolly, testified that Mewbourne had entered into an agreement in principle with Marathon and that it all that remained was to finalize the

agreement to resolve Marathon's objections. *See e.g.* Transcript of October 18 2018 Hearing at 6:4-18, attached as **Exhibit A**.

10. Mewbourne now appears to be unable to deliver a significant portion of the proposed trade acreage due to ownership issues. In Marathon's view, moving forward with the trade is no longer equitable given the limits on what Mewbourne has to trade. Marathon has proposed alternatives to Mewbourne but to date, Mewbourne has not been responsive.

11. In addition, Mewbourne's well density proposal will result in waste.

12. Marathon seeks a stay of Order Nos. R-20312, R-20295, R-20296, R-20313, R-20314, and R-20515 to prevent waste, protect its correlative rights, and prevent gross negative consequences to Marathon until this case is heard *de novo* by the Commission.

13. Marathon has filed a request for *de novo* review with the Commission and objects to Mewbourne's development plan for the acreage as follows:

a. Marathon intends to show at hearing that Mewbourne's completion plans for the wells will result in waste because, upon information and belief and upon Mewbourne's development plan, Mewbourne will not be developing these units at density. This will create a parent-child relationship with any later drilled infill wells, preventing Marathon from developing these units to density at a later date.

b. The Oil and Gas Act, NMSA 1978, § 70-2-1, *et seq.*, expressly prohibits the creation of waste. Section 70-2-2 states "[t]he production or handling of crude petroleum oil or natural gas of any type or in any form . . . in such manner or under such conditions or in such amounts as to constitute or result in waste is each hereby prohibited." The statute explains that waste may occur underground by "the locating, spacing, drilling, equipping, operating or

producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool[.]” NMSA 1978, § 70-2-3.

c. Marathon had filed competing applications to the captioned cases in Case Nos. 16301, 16302, and 16303, but dismissed those applications. Marathon intends to file new applications with Marathon’s development plan. Marathon’s development plan for these units would develop them at density. In several Commission and Division Orders, the agency has concluded that the comparison of geologic evidence and prospect difference between the two applications is “the most important consideration in awarding operations to competing interest owners.” Order R-14526, p. 6 (quoting Order R-10731-B) (emphasis in the original); *see also* Order R-14443 (focusing primarily on geologic and recovery issues when evaluating competing development plans). When reviewing such competing development plans, the Division considers and weighs the following factors:

- (a) A comparison of geologic evidence, and the potential of each proposal to efficient recovery oil and gas underlying the property;
- (b) A comparison of risks associated with the parties’ respective proposals;
- (c) A review of negotiations between the competing parties, to ensure that the parties attempted to negotiate in good faith;
- (d) A comparison of the ability of each party to prudently operate the property, and thereby, prevent waste;
- (e) A comparison of differences in well cost estimates;
- (f) A comparison of differences in administrative and supervisions expenses; and
- (g) An evaluation of the mineral interest ownership held by each party at the time the application was filed.

See Order R-14526; Order R-14518; Order R-107331-B; Order R-14443; and Order R-13372-D.

14. To prevent waste, protect correlative rights, and prevent gross negative consequences to Marathon, Appellant requests the Director grant this Motion to Stay until such time at the Commission has reviewed, deliberated, and issued its order in a *de novo* hearing.

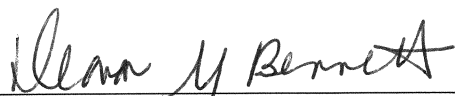
15. If a stay is not entered, Marathon will effectively be denied its statutory right to an appeal *de novo*.

16. Counsel for Marathon has contacted counsel for Mewbourne to see if Mewbourne would voluntarily withhold from commencing wells under the orders, but has not received a response.

WHEREFORE, Marathon requests that the Division Director stay Division Order Nos. R-20312, R-20295, R-20296, R-20313, R-20314, and R-20515.

Respectfully submitted,

**MODRALL, SPERLING, ROEHL, HARRIS
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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 January 22, 2019.

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