

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

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

**Case No. 20662**

**PRE-HEARING STATEMENT**

Rufina Hernandez, Francisco Hernandez, Gerardo Hernandez and Jaime Hernandez (collectively "Hernandez") submit this Pre-Hearing Statement in the above-numbered case as required by the rules of the Division.

**APPEARANCES**

**APPLICANT**

Marathon Oil Permian LLC

**ATTORNEY**

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**OPPONENT**

Hernandez

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## **STATEMENT OF THE CASE**

Marathon has filed a force pooling application in connection with its proposal to drill three horizontal oil wells in the Wolfcamp formation in the West half of Section 28, Township 23 South, Range 28 East, Eddy County, New Mexico. Hernandez may own interests in the lands at issue. Undersigned counsel has requested that Marathon provide title information to verify any Hernandez interest, but as of this time, no response from Marathon has been forthcoming. The application was filed on June 27, 2019. It was served on Rufina Hernandez but not on the other Hernandez siblings, who own an interest in any property in which Rufina Hernandez owns an interest. The case is currently set for hearing before the Division on August 8, 2019.

Hernandez objects to the application on the following grounds:

(a) Marathon has not made a good faith and sufficient effort to secure voluntary participation of Hernandez in its proposed wells. Marathon first gave notice of its proposed wells when it served this force pooling application on only Rufina Hernandez. It has made no effort to get voluntary agreement from Hernandez, has not offered a term assignment as an alternative, and has made no effort to reach out to Hernandez regarding its proposal.

(b) Marathon has not established that it has a right to drill in one or more of the tracts at issue, and has not yet permitted the wells;

(c) Rule 19.15.13.8 NMAC—Charge for Risks, is contrary to and in violation of the legislative mandate set forth in NMSA 1978 § 70-2-17 and contrary to the standard

burden of proof rules imposed on the movant in any proceeding. In any event, a 200% non-consent penalty is not warranted under the facts;

(d) The only acreage-based spacing rule which has been adopted by the OCC and the Division provides for 40 acre spacing for oil wells in the target formations at issue here. Rule 19.15.15.9 NMAC. The Marathon application seeks approval of spacing units for its Wolfcamp well of approximately 320 acres. The acreage at issue in the requests is outside the range for legitimate non-standard spacing units under the 40 acre spacing rules;

(e) Marathon has asked that the Division authorize a delay of up to one (1) year from the time the wells are drilled until the first well is to be completed. Such a request is unreasonable and puts an undue financial burden on Hernandez.

**PROPOSED EVIDENCE**

HERNANDEZ

WITNESSES

EST. TIME

EXHIBITS

None.

APPLICANT

WITNESSES

EST. TIME

EXHIBITS

**PROCEDURAL MATTERS**

None at this time.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

By /s/ J.E. Gallegos

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*Attorneys for Hernandez*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail this 1<sup>st</sup> day of August, 2019.

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