

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

**APPLICATION OF CHISHOLM ENERGY OPERATING, LLC  
FOR COMPULSORY POOLING  
LEA COUNTY, NEW MEXICO.**

**CASE NOS. 20520 & 20521**

**CHISHOLM ENERGY OPERATING, LLC'S  
RESPONSE IN OPPOSITION TO MOTION FOR CONTINUANCE**

The applicant in these cases, Chisholm Energy Operating, LLC ("Chisholm") (OGRID No. 327137), submits this response to the Opposed Motion for Continuance (filed Aug. 15, 2019) of Marathon Oil Permian LLC ("Marathon"). In support of this response, Chisholm states as follows:

1. Both of these cases were heard by the Division on June 13, 2019 and were continued to July 25, 2019 only to perfect notice upon two additional overriding royalty interest owners.
2. Prior to hearing on June 13, 2019, Chisholm provided timely notice of the hearing to Marathon, as an overriding royalty interest owner in the subject horizontal spacing units. *See* Chisholm's Hearing **Exhibits A-3, C** (Case Nos. 20520 & 20521). However, Marathon failed to enter an appearance at the June 13 hearing, or contact Chisholm at all to address its claimed working interest until July 12, 2019 when Marathon's outside counsel sent a letter to Chisholm's "Legal and/or Land Department." *See* Letter attached to Marathon's Opposed Motion for Continuance (filed Aug. 15, 2019). By failing to enter an appearance in these proceedings as required by the rules prior to the June 13, 2019 hearing, Marathon waived its opportunity "to present technical evidence at the hearing." *See* 19.15.4.10.C NMAC.
3. Although Marathon failed to timely move for a continuance prior to the July 25, 2019 hearing pursuant to 19.15.4.13(C) NMAC, the cases were continued by the Division to

August 22, 2019 over Chisholm's opposition. *See* Marathon's Opposed Motion for Continuance (filed July 23, 2019).

4. Since these cases were last continued, Marathon has provided no information to Chisholm to verify or support its claimed working interest ownership in these spacing units.

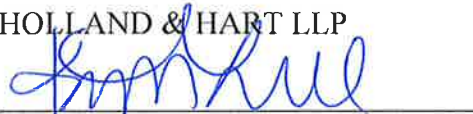
5. Now, Marathon seeks another continuance solely for the purpose of "appear[ing] at the hearing in this case *to present evidence of Marathon's working interest ownership.*" *See* Motion, at 1 (emphasis added).

6. Under established Division precedent, It is neither necessary nor proper to continue these cases again for purposes of allowing Marathon additional time to potentially resolve the issues related to Marathon's purported working interest because "[t]he Division has no jurisdiction to determine the validity of any title, or the validity or continuation in force and effect of any oil and gas lease. Exclusive jurisdiction of such matters resides in the courts of the State of New Mexico." *See TMBR/Sharp*, Order R-11700-B, at p. 5, ¶ 27.

WHEREFORE, Chisholm respectfully requests the Division deny Marathon's motion for continuance of Case Nos. 20520 and 20521, and set a pre-hearing conference on the motion *prior to* August 22, 2019.

Respectfully submitted,

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**ATTORNEYS FOR CHISHOLM ENERGY  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 16, 2019, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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A handwritten signature in blue ink, appearing to read "Michael H. Feldewert", is written over a horizontal line. To the left of the main signature, there is a small, stylized blue mark that looks like "for".

Michael H. Feldewert