

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:

CASE NOS: 20869

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

November 14, 2019

SANTA FE, NEW MEXICO

This matter came on for hearing before the New Mexico Oil Conservation Division, EXAMINERS LEONARD LOWE, KATHLEEN MURPHY, PHILLIP GOETZE, and LEGAL EXAMINER ERIC AMES, on Thursday, November 14, 2019, 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.

Reported by: Irene Delgado, NMCCR 253  
PAUL BACA PROFESSIONAL COURT REPORTERS  
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Albuquerque, NM 87102  
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A P P E A R A N C E S

For the Applicant:

DEANA BENNETT  
MODRALL SPERLING ROEHL HARRIS & SISK PA  
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I N D E X

CASE NO. 20869 CALLED	
RYAN GYLLENBAND (By Affidavit)	03
THOMAS LOCKWOOD (By Affidavit)	04
TAKEN UNDER ADVISEMENT:	09

E X H I B I T I N D E X

	Admitted
Exhibit A and Attachments	06
Exhibit B and Attachments	06

1                   HEARING EXAMINER LOWE: We will call case --  
2 Deana, do you want to consolidate the cases, the next three  
3 cases?

4                   MS. BENNETT: I have actually consolidated two of  
5 the cases, 20870 and 20871, and then I'm presenting 20869  
6 separately.

7                   HEARING EXAMINER LOWE: We will call case Number  
8 20869 Marathon for compulsory pooling. Call for appearance.

9                   MS. BENNETT: Good morning. My name is Deana  
10 Bennett and I'm here on behalf of Marathon Oil Permian LLC.

11                   I apologize, I only made three copies.

12                   HEARING EXAMINER LOWE: Thank you. You may  
13 proceed.

14                   MS. BENNETT: Thank you. As you're aware, I'm  
15 presenting this case by affidavit. There is no opposition  
16 that's been levied against the case, or against the case  
17 being heard by affidavit.

18                   In the materials before you there are two main  
19 exhibits, Exhibit A, which is the affidavit of the landman,  
20 and Exhibit B which is the affidavit of the geologist, both  
21 of whom have previously testified before the Division and  
22 their credentials have been accepted as a matter of record.

23                   Behind Exhibit A you will find the application,  
24 and I should say, these are exhibits -- I'm sorry, Case  
25 Number 20869 is for the Wolfcamp well, and it's for three

1 wells. And so the application that you see behind Exhibit 1  
2 is the application for 20869, which is the Wolfcamp well.

3 Behind Tab 2 are the C-102s for the Wolfcamp  
4 wells.

5 Tab 3 contains the lease tract maps and unit  
6 recapitulation, as well as some other information I will get  
7 to in a minute.

8 Tab 4 is the proposal letter.

9 Tab 5 is the AFEs. Mr. Gyllenband testifies that  
10 the costs set forth in the AFEs are reasonable and  
11 comparable to rates charged by other operators in this area  
12 of New Mexico for the same length and type of wells.

13 Exhibit 6 is my affidavit of notice.

14 Behind Tab B are the geology exhibits. They are  
15 the standard exhibits that you would expect to see, a  
16 structure map, cross section, an isochore, and as well as we  
17 have included a location -- a locator map, a gun barrel  
18 view, and a citation to the Snee and Zoback paper justifying  
19 the geologist's conclusion about the maximum orientation and  
20 the preferred orientation for the wells. That's the easy  
21 part of this case.

22 In this case Marathon is also using the proximity  
23 tract rule to bring in adjoining tracts, and Mr. Gyllenband  
24 testifies about that in his affidavit at Paragraph 9.

25 The completed interval for the Ender Wiggins 14

1 WA FC 19H well is less than 330 feet from the adjoining  
2 tracts, and the Division's rules allow for the inclusion of  
3 proximity tracts under that situation.

4 There's also a depth severance in this case --  
5 two depth severances, actually. Mr. Gyllenband testifies  
6 about those two depth severances in Paragraphs 14 through  
7 19, and we have included behind Tab 3 the relevant lease  
8 language creating the depth severances, and that's on Pages  
9 16 and 17.

10 Marathon proposed an allocation formula in its  
11 application. No parties oppose the allocation formula. The  
12 allocation formula is set out in Paragraph 17, and that is  
13 an allocation for production and costs. And the allocation  
14 formula is based on the prorata division essentially by  
15 foot.

16 So assuming a 500-foot interval, there's the  
17 middle part of that interval has 250 feet, so that part  
18 is being -- the owners in that part are being attributed or  
19 allocated 50 percent of the production and 50 percent of the  
20 cost. The other two halves, they are rough halves, one is  
21 at 70 feet, one is at 180 feet, so we divided those up  
22 prorata. One is getting 14 percent, one is getting 36  
23 percent to equal the 100 percent of the 500 feet.

24 We proposed that allocation formula in the  
25 application. No parties have opposed that allocation

1 formula, and Marathon is requesting that that allocation  
2 formula be approved and be included in the order.

3 Marathon is also requesting expedited orders in  
4 this case and the two following cases, and I will be  
5 submitting Exhibit A's when I submit the PDF of the exhibit  
6 packet.

7 One final note is that on the -- on my affidavit,  
8 which is behind Tab 6 at Page 27, our tracking software that  
9 we use did not update, and so it shows a number of letters  
10 as being undelivered when, in fact, those letters were  
11 delivered. And I will provide supplemental information to  
12 the Division showing which letters were, in fact, delivered.  
13 But, in any event, I have published, out of an abundance of  
14 caution in the newspaper.

15 At this time I would request that Exhibit A and  
16 its attachments and Exhibit B and its attachments be  
17 accepted into the case for Case Number 20869.

18 HEARING EXAMINER LOWE: Exhibits A and B and  
19 attachments will be accepted for this case. Thank you.

20 (Exhibits A and B admitted.)

21 MS. BENNETT: Thank you. And I stand for any  
22 questions you may have.

23 HEARING EXAMINER LOWE: Kathleen?

24 EXAMINER MURPHY: I had a question, but now I  
25 can't find it, so no.

1 MS. BENNETT: I'm here all day.

2 EXAMINER MURPHY: No questions.

3 HEARING EXAMINER LOWE: Mr. Goetze?

4 EXAMINER GOETZE: Oh, yeah. Okay. So you are  
5 proposing this extraordinary set of terms and negotiations  
6 to be included in an order, why not have an agreement  
7 between the operator and exclude the Division from the  
8 cumbersome task of having to put something in an order that  
9 really we can't track or enforce?

10 MS. BENNETT: I can't answer that question.

11 EXAMINER GOETZE: Okay. The geology were secure  
12 enough that over a mile and a half lateral that these  
13 conditions could still be real?

14 MS. BENNETT: Yes.

15 EXAMINER GOETZE: Oh, okay.

16 MS. BENNETT: I mean, the geologist and the --  
17 the geologist reviewed the language in the depth  
18 severances -- that's my understanding anyway. I saw it in  
19 the affidavit.

20 EXAMINER GOETZE: The geology is nice over here,  
21 but when you've finished your well and you have a defined  
22 profile in the deviation, will there be some way of  
23 verifying it, of Marathon doing that, than it met its  
24 obligations under the conditions?

25 MS. BENNETT: I'm happy to follow up with the

1 geologist about that and provide you supplemental  
2 information, but I don't have that in the affidavit, so I  
3 can't answer that question.

4 EXAMINER GOETZE: Fine. We're not being -- we're  
5 not -- it's just unusual to have this type of, of condition  
6 being requested when what we have is a standard compulsory  
7 pooling. So we share the burden now of saying we verified  
8 this and everyone is playing by the rules. So that's all I  
9 have right now for that.

10 MS. BENNETT: Thank you.

11 HEARING EXAMINER LOWE: Eric.

12 MR. AMES: Nothing.

13 HEARING EXAMINER LOWE: You mentioned allocation  
14 formula.

15 MS. BENNETT: Uh-huh.

16 HEARING EXAMINER LOWE: Where is that in your  
17 exhibit?

18 MS. BENNETT: That's on the page in the landman's  
19 affidavit on Paragraph 17, I believe it is.

20 HEARING EXAMINER LOWE: What page?

21 MS. BENNETT: Page 3.

22 HEARING EXAMINER LOWE: I have no other questions  
23 for now.

24 MS. BENNETT: Thank you. With that I would ask  
25 that case Number 20869 be taken under advisement.

1 HEARING EXAMINER LOWE: Case Number 20869 will be  
2 taken under advisement.

3 MS. BENNETT: Thank you.

4 (Case 20869 taken under advisement.)

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1 STATE OF NEW MEXICO )  
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2 COUNTY OF SANTA FE )

3 I, IRENE DELGADO, certify that I reported the  
4 proceedings in the above-transcribed pages, that pages  
5 numbered 1 through 9 are a true and correct transcript of my  
6 stenographic notes and were reduced to typewritten  
7 transcript through Computer-Aided Transcription, and that on  
8 the date I reported these proceedings I was a New Mexico  
9 Certified Court Reporter.

10 Dated at Santa Fe, New Mexico, this 14th day of  
11 November 2019.

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Irene Delgado, NMCCR 253  
Expires: 12-31-19