

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

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

**Case No. 21273 and 21274  
(*De Novo* Case Nos. 20865  
and 20866)**

**BTA OIL PRODUCERS, LLC'S  
PRE-HEARING STATEMENT**

BTA Oil Producers, LLC ("BTA") submits its Pre-Hearing Statement pursuant to the rules of the Oil Conservation Commission.

**APPEARANCES**

**APPLICANT**

Marathon Oil Permian LLC

**APPLICANT'S ATTORNEYS**

Jennifer Bradfute  
Senior Attorney  
Marathon Oil Company  
5555 San Felipe Street  
Houston, TX 77056  
Phone: (713) 296-2027  
jbradfute@marathonoil.com

Deana M. Bennett  
Modrall, Sperling, Roehl, Harris  
& Sisk, P.A.  
Post Office Box 2168  
Santa Fe, NM 87103-2168  
Phone: (505) 848-1800  
deana.bennett@modrall.com

**OPPONENT**

BTA Oil Producers, LLC

**OPPONENT'S ATTORNEYS**

Dana S. Hardy  
Dioscorro "Andy" Blanco  
Hinkle Shanor LLP  
Santa Fe, NM 87504-2068  
Phone: (505) 982-4554  
dhardy@hinklelawfirm.com  
dblanc@hinklelawfirm.com

INTERESTED PARTY

OXY USA, Inc.

INTERESTED PARTY'S  
ATTORNEYS

Michael H. Feldewert  
Adam G. Rankin  
Julia Broggi  
Kaitlyn A. Luck  
Holland & Hart LLP  
Post Office Box 2208  
Santa Fe, NM 87504-2208  
Phone: (505) 988-4421  
mfeldewert@hollandhart.com  
agrarkin@hollandhart.com  
jbroggi@hollandhart.com  
kaluck@hollandhart.com

**STATEMENT OF THE CASE**

In Case No. 21273 (*De Novo* Case No. 20865), Applicant Marathon Oil Permian LLC (“Marathon”) requests an order pooling all uncommitted mineral interests within a Bone Spring horizontal spacing unit underlying the S/2 N/2 of Section 12, Township 23 South, Range 28 East and Section 7, Township 23 South, Range 29 East in Eddy County. Marathon proposes to dedicate the 320-acre horizontal spacing unit to the Valkyrie 12 SB Federal Com 13H well.

In Case No. 21274 (*De Novo* Case No. 20866), Marathon requests an order pooling all uncommitted mineral interests within a Wolfcamp horizontal spacing unit underlying the N/2 of Section 12, Township 23 South, Range 28 East and Section 7, Township 23 South, Range 29 East in Eddy County. Marathon proposes to dedicate the 640-acre horizontal spacing unit to the Valkyrie 12 WXY Federal Com 1H, Valkyrie WA Federal Com 3H, Valkyrie 12 WXY Federal Com 5H, Valkyrie 12 WD Federal Com 2H, Valkyrie 12 WD Federal Com 4H, and Valkyrie 12 WD Federal Com 6H wells.

Pursuant to a Joint Operating Agreement (“JOA”), BTA is the operator of the acreage comprising the N/2 of Section 7 and the NW/4 of Section 8, Township 23 South, Range 29 East

(the “Ochoa Acreage”). BTA acquired its interest in the Ochoa Acreage before Marathon acquired its interest in the proposed horizontal spacing units that are the subject of its applications. BTA plans to fully develop the Ochoa Acreage, controls 100% of the interest in its Ochoa Acreage, does not need to file a pooling application to develop the acreage, and is ready to commence development. Because Marathon’s proposed well locations directly conflict with BTA’s ongoing development plan for the Ochoa Acreage, the granting of Marathon’s applications would impair BTA’s correlative rights. Granting Marathon’s applications would also render BTA’s JOA meaningless, which is inconsistent with New Mexico’s preference for voluntary agreements.

Further, BTA is an experienced and prudent operator, and BTA’s plan for developing its Ochoa Acreage is superior to Marathon’s plan. BTA’s development plan will more efficiently recover the reserves underlying its acreage, while Marathon’s proposal includes unnecessary wells, fails to fully develop the Ochoa Acreage, and strands 80 acres in the S/2 NW/4 of Section 8. Marathon’s plan would consequently impair BTA’s correlative rights and result in waste.

BTA is also able to timely locate wells and is ready to commence drilling operations. The BLM has already approved BTA’s well sites, and BTA has continued to spud wells in New Mexico during 2020 and has active rigs available. In contrast, Marathon has stated that it has suspended drilling activity in the Northern Delaware and has released its rigs. Because BTA plans to commence drilling once this case is resolved and Marathon does not, granting Marathon’s applications would result in waste and impair BTA’s correlative rights.

Denial of Marathon’s applications is further warranted because Marathon failed to negotiate with BTA in good faith prior to seeking compulsory pooling.

In addition, in Case Nos. 20410 and 20298, the Division rejected attempts to preclude operators that held 100% of the working interest in their units from developing their acreage. In

Case No. 20410, the Division denied OXY USA, Inc.’s (“OXY”) motion to stay administrative approval of drilling permits issued to Murchison Oil & Gas (“Murchison”) when Murchison controlled 100% of the working interest in its 1-mile laterals and OXY sought to develop 2-mile laterals.<sup>1</sup> Similarly, in Case No. 20298, the Division denied Catena Resources Operating, LLC’s motion to suspend Mewbourne’s drilling permit when Mewbourne controlled 100% of the working interest in its proposed spacing unit.<sup>2</sup> The issues presented here are analogous, and the Commission should similarly deny Marathon’s applications so that BTA can develop its Ochoa Acreage.

### **PROPOSED EVIDENCE**

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
Willis Price (Landman)	20 minutes	9
Britton McQuien (Engineer)	40 minutes	10
Nick Eaton (Engineer)	20 minutes	4

BTA reserves its right to call a rebuttal witness(es) if appropriate. In accordance with 19.15.4.13.B.2 NMAC, copies of the exhibits that BTA proposes to offer in evidence at the hearing are attached.

### **PROCEDURAL MATTERS**

BTA is not aware of any procedural matters to be resolved prior to the hearing.

---

<sup>1</sup> See Order No. R-20430.

<sup>2</sup> See Order No. R-20467.

Respectfully submitted,

HINKLE SHANOR LLP

/s/ Dana S. Hardy

Dana S. Hardy

Dioscorro "Andy" Blanco

P.O. Box 2068

Santa Fe, NM 87504-2068

Phone: (505) 982-4554

Facsimile: (505) 982-8623

dhardy@hinklelawfirm.com

dblanc@hinklelawfirm.com

*Counsel for BTA Oil Producers, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of August, 2020 I served a true and correct copy of the foregoing ***Prehearing Statement*** on the following counsel of record by electronic mail:

Deana Bennett  
500 Fourth St. NW, Suite 1000  
Albuquerque, New Mexico 87102  
(505) 848-1834  
deanna.bennett@modrall.com  
*Counsel for Marathon Oil Permian LLC*

Jennifer Bradfute  
Senior Attorney  
Marathon Oil Company  
5555 San Felipe Street  
Houston, TX 77056  
(713) 296 2027  
jbradfute@marathonoil.com  
*Counsel for Marathon Oil Permian LLC*

Michael H. Feldewert  
Adam G. Rankin  
Julia Broggi  
Kaitlyn A. Luck  
Holland & Hart LLP  
Post Office Box 2208  
Santa Fe, NM 87504-2208  
mfeldewert@hollandhart.com  
agrarkin@hollandhart.com  
jbroggi@hollandhart.com  
kaluck@hollandhart.com  
*Counsel for OXY USA Inc.*

/s/ Dana S. Hardy  
Dana S. Hardy