

**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
(Division Case Nos. 20865
and 20866)**

**BTA OIL PRODUCERS, LLC'S
OBJECTION TO MARATHON OIL PERMIAN'S SUPPLEMENTAL EXHIBITS**

BTA Oil Producers, LLC ("BTA") objects to the supplemental exhibits submitted by Marathon Oil Permian ("Marathon") as set out below.

1. At the August 13-14, 2020 hearing in these matters, the Commission requested that Marathon provide supplemental information regarding two narrow issues: (1) the wells included in Marathon's Exhibit 16; and (2) data regarding the parent-child effect. Marathon's supplemental exhibits exceed the scope of the Commission's requests, are not responsive, and seek to inject new information into these cases subsequent to the conclusion of testimony and closing arguments. If Marathon believed the information included in its new exhibits was relevant, Marathon should have provided it through its exhibits and testimony in accordance with the Commission's deadlines. It did not do so and now seeks to inappropriately and unnecessarily prolong the hearing in this matter. Marathon's attempt to remedy its initial failures is inconsistent with the Commission's rules and requests, and its supplemental Exhibits 20-24 should be excluded.

2. In cases pending before the Commission, the Commission's adjudication rule, 19.15.4.13.B.2 NMAC, requires parties to provide hearing exhibits along with their pre-hearing statements and affords them an opportunity to provide rebuttal exhibits. Further, in accordance with Commission Order No. R-21416, all hearing exhibits were due to the Commission by 12:00 p.m. on August 12, 2020.

3. Marathon's new Exhibits 20-22 provide argument and information regarding the effect of setbacks. At the hearing, the Commission asked Marathon's engineering witness, Yuri Rodionov, whether he had calculated the lost reserves from undeveloped setbacks, and Mr. Rodionov answered that he had not.¹ Marathon's exhibits include new arguments and information on regarding setbacks that exceed the scope of the inquiry. Furthermore, the Commission did not actually request that Marathon provide supplemental exhibits on this issue.

4. With respect to Marathon's new Exhibit 24, which relates to the costs of 1-mile wells versus 2-mile wells, the Commission asked Mr. Rodionov whether he had provided estimates of the cost savings of 2-mile wells versus 1-mile wells, and he said that he had not.² The Commission did not request that Marathon provide supplemental exhibits on this issue and it should not be permitted to do so now.

5. With respect to Marathon's new Exhibit 23, the Commission requested that Marathon's engineering witness provide confidence intervals and identify the wells included in Marathon's Exhibit 16, which provides graphs of lateral effects on well performance for 2-mile and 1.5-mile Upper Wolfcamp wells.³ Marathon's new Exhibit 23 is not responsive and exceeds the scope of the request. Exhibit 23 does not address per foot efficiency, includes wells completed in formations other than the Upper Wolfcamp, includes wells that are 1, 1.5, and 2-miles in length, and does not provide confidence intervals.

6. With respect to Marathon's new Exhibit 22, the Commission did request that Marathon provide its data on the parent-child effect. However, Mr. Rodionov testified that he had

¹ Because the hearing transcript is not yet available, BTA is referring to the video recording of the hearing. *See* 8/13/20 Hearing Recording at approximately 4:45:00-4:46:00.

² *See id.*

³ *See id.* at approximately 4:48:52.

prepared the slides prior to the hearing and simply did not provide them.⁴ It is unfair for Marathon to decline to provide information with its exhibits and provide it later once its exhibits are determined to lack information.

7. The Commission's procedural rules exist to ensure fairness to all parties. It is inconsistent with the purpose and language of the rules for a party to belatedly provide information, after all witnesses have testified and closing arguments have occurred, when it could have done so in a timely manner. In addition, Marathon's exhibits exceed the scope of the Commission's requests and will unnecessarily prolong the hearing. In accordance with Rule 19.15.4.13.B.2 and Commission Order No. R-21416, Marathon's supplemental exhibits should be excluded.

For the foregoing reasons, Marathon's new Exhibits 20-24 do not comply with the Commission's rules or requests and should be excluded.

Respectfully submitted,

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⁴ See *id.* at approximately 4:50:00.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of August, 2020 I served a true and correct copy of the foregoing pleading on the following counsel of record by electronic mail:

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