

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

**APPLICATIONS OF MATADOR PRODUCTION
COMPANY FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

CASE NOS. 21543, 21630

**APPLICATION OF FLAT CREEK RESOURCES,
LLC, FOR A HORIZONTAL SPACING UNIT AND
COMPULSORY POOLING, EDDY COUNTY, NEW
MEXICO.**

CASE NOS. 21560, 21747

MOTION TO DISMISS CASE NO. 21560

Matador Production Company (“Matador”) moves to dismiss Case No. 21560. In support, Matador states as follows:

ARGUMENT

1. Flat Creek Resources, LLC (“Flat Creek”) filed its application in Case No. 21560 on December 4, 2020, to create “a 480-acre standard horizontal spacing and proration unit” within the Wolfcamp formation, comprised of the N/2 and N/2 S/2 of Section 23, Township 23, South, Range 27 East, NMPM; pool all uncommitted mineral interests therein; and dedicate three initial wells to the spacing unit.

2. The Application is defective, fails to comply with Division regulations and notice requirements, and must be dismissed for three reasons.

Flat Creek improperly applies to pool a “standard” horizontal spacing unit instead of seeking approval to form and pool a non-standard horizontal spacing unit.

3. The Application states Flat Creek seeks to pool a “standard” horizontal spacing unit comprised of 480 acres in the Wolfcamp formation. However, Flat Creek’s proposed

horizontal spacing and proration unit will be in the Purple Sage Wolfcamp Pool (98220). A standard horizontal spacing unit in the Purple Sage Wolfcamp Pool is comprised of either half sections or quarter sections. *See* Order R-14262 at Finding ¶ 16; NMAC 19.15.16.15.B(4).

4. Flat Creek acknowledges its Application incorrectly states that it seeks a standard spacing unit and that the requested 480-acre unit requires Division approval of an enlarged non-standard horizontal spacing unit. *See* email from D. Savage, dated April 30, 2021 (stating that its proposed unit “should be a non-standard 480-ac unit”).

5. Under the Division’s rules, the Application must be dismissed because Flat Creek failed to state it is seeking an order approving and pooling an enlarged non-standard horizontal spacing unit. *See* Division Rule 19.15.4.8(A)(4) NMAC (the application must properly identify the “general nature of the order sought”). *See also* NMOCD Notice, Material Changes or Deficiencies in Applications Submitted to the OCD Engineering Bureau, effective June 11, 2020 (stating that a “deficiency” in an application is “material” requiring dismissal when it fails to meet the substantive rules for an application).

Flat Creek failed to provide proper public notice of the non-standard spacing unit and failed to notify the affected parties in all offsetting tracts.

6. Flat Creek failed to give complete and accurate notice of its proposed enlarged non-standard horizontal spacing unit as required by 19.15.16.15.B(5)(b) and 19.15.15.11.B(4) NMAC.

7. Flat Creek not only failed to provide notice in its application or public docket of a desire to pool a non-standard 480-acre spacing unit, but further failed to provide notice to all the affected parties in the adjoining tracts as required by 19.15.16.15.B(5)(b)(ii) NMAC.

8. Flat Creek's failure to provide complete and accurate notice of its proposal to form and pool an enlarged non-standard horizontal spacing unit mandates dismissal. *See also* NMOCD Notice, Material Changes or Deficiencies in Applications Submitted to the OCD Engineering Bureau, effective June 11, 2020 (stating that a "[f]ailure to completely and accurately notice" is grounds for dismissal of an application, requiring re-submission).

Flat Creek did not propose two of the three wells it now purports to dedicate to the non-standard spacing unit prior to filing its pooling application.

9. Flat Creek's application seeks an order force pooling all uncommitted mineral interests into an enlarged 480-acre non-standard horizontal spacing unit and to dedicate that pooled spacing unit to three wells, two in the N/2 of Section 23 and a third in the N/2 S/2 of Section 23.

10. However, it is undisputed that prior to filing its pooling application on December 4, 2020, Flat Creek had only proposed the drilling of a single well (the Thirteen Seconds 703H Well) in the N/2 S/2 of Section 23. Prior to filing its pooling application, Flat Creek had not proposed either of its two wells in the N/2 of Section 23.

11. The Division requires an applicant for compulsory pooling to properly propose the wells its seeks to initially dedicate to the desired spacing unit before filing the pooling application so that the parties have the necessary information to engage in discussion on the proposed development plan prior to invoking the pooling authority of the Division. *See* Order R-13165 (Application of Cimarex Energy Company). This fundamental requirement was not met by Flat Creek prior to filing its pooling application in Case 21560.

WHEREFORE, Matador Production Company respectfully requests that the Division grant its Motion to Dismiss and deny Flat Creek's Application in Case No. 21560.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2021, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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