

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: 20132 20133 20134
20630 20631 20632
20633

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

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS
EXAMINER HEARING
JULY 15, 2021
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before
the New Mexico Oil Conservation Division, HEARING OFFICER
WILLIAM BRANCARD and TECHNICAL EXAMINER DEAN McCLURE on
Thursday, July 15, 2021, through the Webex Platform.

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 Marathon Oil Permian LLC:

DEANA BENNETT
MODRALL SPERLING ROEHL HARRIS & SISK PA
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505-848-9710

For Oxy USA:

KAITLYN LUCK
HOLLAND & HART
110 North Guadalupe, Suite 1
Santa Fe, NM 87501
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For Joby Rittenhouse:

JOBY RITTENHOUSE
BEATY & WOZNIAK PC
500 Don Gaspar Avenue
Santa Fe, NM 87505
505-670-2924

I N D E X

CASE CALLED	
STATUS CONFERENCE	03
REPORTER CERTIFICATE	08

1 HEARING EXAMINER BRANCARD: And with that, I'd
2 like to start the hearings today. On your docket that is on
3 the website, these will be cases 1 through 7. Case numbers
4 are 20132, 20133, 20134, Marathon Oil Permian, and 20630,
5 20631, 20632, 20633 Oxy USA. So entry for Marathon Oil?

6 MS. BENNETT: (Inaudible.)

7 HEARING EXAMINER BRANCARD: Deana, I believe you
8 are muted.

9 MS. BENNETT: (Inaudible.)

10 HEARING EXAMINER BRANCARD: We still cannot hear
11 you. Ms. Bennett, is this your way of making an argument?

12 (Discussion regarding audio problems.)

13 MS. BENNETT: I'm here. Can you hear me now?

14 HEARING EXAMINER BRANCARD: We can hear you now.

15 MS. BENNETT: Great. I'm not entirely sure what
16 that was all about, but I appreciate your patience with the
17 every day different audio, different audio issues keeps us
18 flexible; right? Deana Bennett on behalf of Marathon Oil
19 Permian, LLC. Thank you.

20 HEARING EXAMINER BRANCARD: Oxy USA?

21 MS. LUCK: Good morning, Kaitlyn Luck with the
22 Santa Fe office of Holland & Hart for Oxy USA Inc.

23 HEARING EXAMINER BRANCARD: And I believe EOG
24 Resources is also on the Oxy case.

25 MR. RITTENHOUSE: This is Joby Rittenhouse from

1 Beatty & Wozniak on behalf of EOG Resources.

2 HEARING EXAMINER BRANCARD: Are there any other
3 entries of appearances for these seven cases that I
4 mentioned?

5 (No response.)

6 HEARING EXAMINER BRANCARD: Hearing none, you may
7 wonder why I have gathered you all here this morning since
8 you just filed motions to continue as you have for the past
9 two and a half years. So that's why you are here. I sort
10 of need a reason to know why we should continue with this
11 without the Division simply dismissing these cases for lack
12 of action.

13 Where are we going with this, Ms. Bennett?

14 MS. BENNETT: Thank you. Well, so I appreciate
15 the Division's interests in the cases and certainly
16 understand -- I predicted this is why we were here today
17 given the length of time that the cases have been on the
18 docket.

19 And I did reach out to Marathon, and I know Ms.
20 Luck reached out to Oxy to discuss the status of the cases.
21 And it's my understanding that the parties have been and are
22 continuing to be in negotiations about a trade. And if the
23 trade is successful, that would mean one the parties would
24 be out of the other party's hair allowing the cases to move
25 forward more smoothly in front of the Division.

1 As you noted, these cases have been on the docket
2 for a couple of years, but in the intervening year we did
3 have Covid which caused unanticipated delays, as well as
4 both the companies did some restructuring as a result of
5 some of the changes in the market conditions which also, as
6 I understand it, sort of impacted continuity of the
7 discussions, but they are back in full swing now.

8 In fact when I was talking with -- communicating
9 with Marathon today, the parties had been in regular
10 discussions since February, multiple discussions in June,
11 and discussions as recently as July 13.

12 So they are working diligently towards a
13 resolution and have been using the time they've had to try
14 to get resolution. I understand there's been some title
15 work, curative title work that needed to take place, and
16 Marathon has been pursuing that curative title work during
17 this period as well.

18 So there are a lot of moving parts that have been
19 in the background, and the goal, though, is to resolve
20 the -- for Marathon and Oxy to resolve their differences
21 outside of the OCD process to make the OCD hearing hopefully
22 uncontested when it does happen.

23 So that's why there's been multiple continuances
24 is because the parties are continuing to negotiate in good
25 faith and work through the trade process.

1 HEARING EXAMINER BRANCARD: Thank you. Ms. Luck,
2 anything to add to that?

3 MS. LUCK: I'm generally in agreement (garbled
4 audio) is another reason for the delay is that there was
5 some (garbled audio) involving BTA that were caught up in
6 this acreage but then they fell out because they won an
7 appeal of a Marathon court order.

8 So there have been some like shifting title
9 issues, like Ms. Bennett mentioned, so because of that this
10 has been prolonged but the parties do intend to keep working
11 towards this agreement. I mean I know there are a lot
12 (garbled audio) and they are still talking.

13 HEARING EXAMINER BRANCARD: Mr. Rittenhouse, any
14 comments?

15 MR. RITTENHOUSE: Nothing from EOG. EOG at this
16 point entered an appearance to preserve their rights,
17 similarly engaged in discussions with Oxy in this case for a
18 trade. So nothing beyond that.

19 HEARING EXAMINER BRANCARD: Thank you. Okay,
20 that's helpful. It sounds like we are hopefully going to
21 resolve this. At this point the parties do not seem to want
22 to set up a contested hearing date, so I have not written
23 down what you asked for for a continuance.

24 Does anyone recall what date you asked for?

25 MS. BENNETT: We asked for September 23.

1 HEARING EXAMINER BRANCARD: Okay. We will grant
2 that continuance on the assumption these negotiations are
3 ongoing, that we are not really setting up a contested
4 hearing on September 23 because we have no room for a
5 contested hearing on September 23.

6 So with that, these cases will be continued and
7 we will move forward. Thank you for the information.
8 Appreciate it.

9 MS. BENNETT: Thank you very much.

10 MS. LUCK: Thank you.

11 HEARING EXAMINER BRANCARD: That's a fair warning
12 to folks. If your cases have been around for two years or
13 more, you may get called in front of the examiner to explain
14 what's happening and where we are going with this and why we
15 shouldn't just dismiss it.

16 (Concluded.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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6 I, IRENE DELGADO, New Mexico Certified Court
7 Reporter, CCR 253, do hereby certify that I reported the
8 foregoing virtual proceedings in stenographic shorthand and
9 that the foregoing pages are a true and correct transcript
10 of those proceedings to the best of my ability.

11 I FURTHER CERTIFY that I am neither employed by
12 nor related to any of the parties or attorneys in this case
13 and that I have no interest in the final disposition of this
14 case.

15 I FURTHER CERTIFY that the Virtual Proceeding was
16 of poor to good quality.

17 Dated this 15th day of July 2021.

18

/s/ Irene Delgado

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Irene Delgado, NMCCR 253
License Expires: 12-31-21

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