

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

**APPLICATIONS OF WPX ENERGY PERMIAN, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case Nos. 25204 & 25205

**APPLICATIONS OF 3R OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO**

Case Nos. 25123 & 25124

**[PROPOSED] HEARING EXAMINER'S RULING ON
MOTION TO REOPEN THE RECORD AND FOR RECONSIDERATION**

On April 29-30, 2025, the Division conducted a contested hearing in the above-captioned matters. At the conclusion of the hearing, the evidentiary record was formally closed.

Subsequently, WPX Energy Permian, LLC ("WPX") submitted a Notice of Supplemental Exhibits in which it requested that the Division take administrative notice of two governmental decisions not introduced at hearing: (1) an April 30, 2025 letter that Bureau of Land Management issued a letter ("BLM Letter") in which it granted a suspension of the Federal Oil and Gas Lease NMNM-134858 (the "Federal Lease"), which covers 160 acres of the lands subject to the competing development plans (the W/2 of Section 33); and (2) Order Nos. R-23798, R-23799, R-23800, and R-23801 ("OCD Orders") by which the OCD granted WPX operatorship of the Bone Spring formation covering all of the lands that are the subject of the competing development plans in the cases

The Division received an objection from 3R Operating, LLC ("3R"), and the Hearing Examiner ruled that there was no legal basis for admitting the documents after the close of the record. WPX's request was denied.

Thereafter, WPX submitted on May 21, 2025, its post-hearing proposed findings of fact and conclusions of law, which incorporated and relied upon the two excluded documents. On the same date, WPX also submitted its Closing Argument. On May 21, 2025, 3R objected to WPX's proposed findings of facts and conclusions of law, asserting that WPX knowingly violated the Hearing Examiner's prior ruling and requested that the Division strike WPX's entire submission and/or impose sanctions. 3R did not object to WPX's Closing Argument at the time it objected to WPX's proposed findings of facts and conclusions of law.

After reviewing the procedural record and the parties' filings, the Hearing Examiner issued the Hearing Examiner's Ruling on Post-Hearing Filings and Request for Sanctions ("Order on Post-Hearing Filings") on May 22, 2025, ruling that any factual or legal arguments based on documents not admitted into the record—whether submitted as exhibits or through a request for administrative notice—are improper and inadmissible without a motion to reopen the record.

The Hearing Examiner also ruled that although 1.2.2.35(D)(1)(a) NMAC permits administrative notice of certain official documents, this rule does not authorize post-hearing expansion of the record without express leave and rejected WPX's May 21, 2025 submission in its entirety as procedurally noncompliant.

The Hearing Examiner ordered WPX to file a revised version of its proposed findings of fact and conclusions of law that omits all references to the excluded documents.

The Hearing Examiner also found that "WPX disregarded a clear ruling excluding the subject documents from the record. While the Division will not impose additional sanctions at this time beyond rejection of the noncompliant submission, WPX is cautioned that further disregard for procedural rules or express rulings of the Hearing Examiner may result in the imposition of sanctions, including adverse procedural rulings or exclusion of future filings."

The Hearing Examiner stated that 3R may, if it so chooses, file a formal motion for sanctions. 3R chose not to file a formal motion for sanctions.

On May 23, 2025, WPX filed its Revised Proposed Findings of Fact.

On May 30, 2025, 3R raised new objections, this time against WPX's Closing Argument, which was filed on May 21, 2025, the same day as WPX's proposed findings, stating that it assumes the Division would act and offered to provide a formal motion encouraging the Division to take disciplinary action. The Hearing Examiner stated that 3R should submit a formal motion and request a hearing on the matter on June 26, 2025, and that all parties should continue the cases to June 26, 2025, for the hearing. 3R did not file the motion as requested.

On June 6, 2025, the Hearing Examiner stated that although 3R is not pursuing a motion to request a hearing, the Hearing Examiner decided that WPX's closing argument is in violation of the Hearing Examiner's Ruling on Post-Hearing and Request for Sanctions and ordered WPX to submit a revised version of its Closing Argument that removes all references to evidence of the BLM Letter and OCD Orders.

WPX promptly complied with the order and timely submitted a revised Closing Argument that redacted references to the BLM Letter and OCD Orders, which was accepted by the Hearing Examiner

On June 15, 2025, WPX filed a Motion to Reopen the Record and for Reconsideration ("Motion to Reopen"). In its Motion to Reopen the Record, WPX requested that the BLM Letter and OCD Orders be admitted into evidence. On June 17, 2025, 3R filed 3R Operating, LLC's Response to WPX's Motion to Reopen the Record and Consideration [sic] in which it stated that 3R takes no position on the Motion to Reopen.

The Hearing Examiner notes that on May 19, 2025, after the issuance of the BLM Letter suspending the Federal Lease, 3R filed its Second Amended Exhibit Package in which it stated that the Federal Lease was set to expire on October 1, 2025. *See* 3R 000091; 3R 000092; and 3R 000097.

A hearing on the Motion to Reopen was held on June 26, 2025. After reviewing the procedural record, the parties' filings, and the arguments of counsel at the June 26, 2025 hearing, the Hearing Examiner rules as follows:

1. The record is reopened to admit the BLM Letter into the record as WPX Exhibit S-1.
2. As noted by the Hearing Examiner, it is obvious that the OCD is aware of its own rulings. Thus, the OCD Orders are not admitted as exhibits into the record.

IT IS SO ORDERED.

**GREGORY CHAKALIAN
HEARING EXAMINER
NEW MEXICO OIL CONSERVATION DIVISION**



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
New Mexico State Office
301 Dinosaur Trail
Santa Fe, New Mexico 87508
<https://www.blm.gov/new-mexico>

In Reply Refer to:
3100 (NM92100)
NMNM 134858

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
7020 1810 0000 4307 9581

ConocoPhillips/Marathon Oil Permian LLC
Attn: Beth Ryan
600 W. Illinois Ave.
Midland, TX 79701

Dear Ms. Ryan:

By letter received April 17, 2025, Marathon Oil LLC (Marathon) requested a Mineral Leasing Act (MLA) Section 39 suspension of operations and production on behalf of all lessees/operating rights owners for Federal lease NMNM 134858. This lease was effective October 1, 2015, and is in its primary term with an expiration date of September 30, 2025.

Marathon executed a Term Assignment of the lease in favor of 3R Operating (3R), who filed Applications for Permit to Drill (APDs) to develop the lease. The APDs submitted are for the Crystal 33 32 Fed Comm #701H, #702H, #801H, #802H, Crystal SW 33 32 Fed Comm #703H, #803H, and #804H, which were accepted by the Carlsbad Field Office (CFO) in December 2024.

These proposed wells would penetrate the subject lease. On January 8, 2025, 3R filed applications for compulsory pooling with the New Mexico Conservation Division (NMOCD) (Case Nos. 25123 and 25124). On February 10, 2025, WPX Energy Permian, LLC (WPX) filed applications for compulsory pooling (Case Nos. 25204 and 25202) for the wells Frontier 33-32 State Fed Com #601H, #602H, #603H, and #604H. On March 24, 2025, WPX filed a protest of #R's Crystal Wells APDs due to the competing cases at the NMOCD. On March 25, 2025, 3R responded with their own protest of WPX's Frontier Wells APDs. The 3R and WPX NMOCD Cases are scheduled for a contested hearing on April 29, 2025. Whichever party prevails and is the designated operator by the NMOCD, will become the operator of the spacing unit which includes this lease.

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At this time, it is unclear whether 3R or WPX can obtain a pooling order from the NMOCD and get the submitted APDs approved before the expiration of the lease. Therefore, we grant a suspension of operations and production per Section 39 of the Mineral Leasing Act for lease NMNM 134858, **effective April 1, 2025**.

Per 43 CFR 3165.1(c), this suspension of operations and production will automatically terminate: 60 days after the BLM CFO approves the Crystal Well APDs or the Frontier Well APDs or when activity begins on the lease, **whichever occurs first**. Lease activity includes, but is not limited to, road construction, site preparation, well repair, drilling or similar activity.

Per 43 CFR 3103.4-4(b), when the suspension is terminated, NMNM 134858 will have 183 days left in its primary term. For the lease to remain in effect in its extended term, you will need to either have completed a well prior to lease expiration that is capable of production in paying quantities or be actively drilling at midnight on the last day of the lease term. **Rental payments are waived** during the suspension of operations and production of these leases.

As provided in 43 CFR 3165.3(b), you may request an administrative review of this decision before the State Director. Per 43 CFR 3165.4, you may appeal any instructions, orders, or decisions issued by the BLM New Mexico State Office directly to the Interior Board of Land Appeals pursuant to the regulations found at 43 CFR 4. A copy of Form 1842-1, *Information on Taking Appeals to the Interior Board of Land Appeals*, is enclosed. If you have questions, contact Adrienne Brumley at (505) 301-3350 or ABrumley@blm.gov.

Sincerely,

MICHAEL
GIBSON

Digitally signed by
MICHAEL GIBSON
Date: 2025.04.30
15:39:00 -06'00'

Michael Gibson
Deputy State Director
Division of Minerals

1 Enclosure

1- BLM Form 1842-1

cc:

Office of Natural Resources Revenue (ONRR)
leases.blm@onrr.gov

NMP02000, C. Walls
NM92200, J. Serrano
NM92100, A. Brumley