

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

**APPLICATION OF POWDERHORN OPERATING, LLC
FOR COMPULSORY POOLING,
EDDY COUNTY, NEW MEXICO.**

CASE NO. 25610

MOTION TO EXCLUDE EVIDENCE

Pursuant to the Prehearing Order in this matter, Marathon Oil Permian, LLC (“Marathon”) timely moves to exclude Powderhorn Operating, LLC’s (“Powderhorn”) Exhibit A-9 (regarding notice information for non-standard well locations), as well as Exhibits A-18 and A-19, and paragraph 30 of Travis Macha’s (landman) statement. In support, Marathon states:

1. Initiating an adjudicatory hearing before the Division requires applicants to include all requested relief in the application. 19.15.4.8.A NMAC. Powderhorn did not include a request for approval of non-standard (“NSL”) well locations in its application. *See* Powderhorn Exhibit A-1. In fact, Powderhorn affirmatively stated in its notice hearing letter that approval of the requested NSLs is not part of its requested relief at hearing: “The wells will be horizontally drilled and have non-standard first and last take points. Applicant will apply for administrative approval of the non-standard locations.” *See* Powderhorn Exhibit D-1 (emphasis added).

2. Because Powderhorn’s applications do not seek approval for NSLs, any testimony and exhibits related to that requested relief is irrelevant and immaterial and should be excluded. 19.15.4.17.A NMAC (“The . . . division examiner may admit relevant evidence, unless it is immaterial, repetitious or otherwise unreliable.”). Powderhorn’s attempt to include approval for NSLs is contrary to the Division’s hearing regulations and should be rejected.

3. Powderhorn filed administrative applications for NSL approvals, which Marathon objected to on October 29, 2025. *See* Exhibit A (attached). Per email direction from the Division

technical examiner, Powderhorn had thirty days to provide an update to the Division and/or resolve the objections, otherwise the applications would be canceled or rejected. *Id.* No update was provided to the Division¹ and no resolution was reached with Marathon. Thus, the administrative applications were canceled on November 29, 2025.

4. Moreover, including canceled administrative applications as part of a pending pooling case is not the correct Division process for seeking approval of canceled administrative applications at hearing. If an administrative application is objected to and the objection is not withdrawn within the thirty-day period, an applicant is required to file an application for hearing—not boot-strap it on to an existing case without including it in a hearing application or providing proper notice. *See* Application File - Action ID: 187587 and Division Case No. 23425 (XTO Energy, Inc's ("XTO") administrative application for approval of a non-standard well location rejected when Apache Corporation objection not withdrawn within thirty-day period, requiring XTO to file an application for hearing and complete new notice).

5. Additionally, Powderhorn made no mention about adding the canceled administrative applications to this hearing in their prehearing statement, which also requires the requested relief to be included and identification of any procedural matters to be raised. *See* 19.15.4.13.B NMAC.

6. Powderhorn's NSL testimony and exhibits are immaterial and irrelevant to this proceeding because approval of NSLs were not included in Powderhorn's requested relief in its hearing application. Because its administrative applications are canceled, Powderhorn will have to re-file and re-notice new NSL applications. It would be improper to allow that issue to be inserted

¹ *See* application files: Super Hornet State Com 401H - Action ID: 519190; Super Hornet State Com 402H - Action ID: 519493; Super Hornet State Com 403H - Action ID: 519497; and Super Hornet State Com 404H - Action ID: 519615.

into this proceeding. 19.15.4.8.A NMAC. Instead, all evidence and testimony related to its proposed NSLs should be excluded as irrelevant and immaterial. 19.15.4.17.A NMAC.

7. Powderhorn opposes this motion.

WHEREFORE, Marathon respectfully request that the Division exclude Powderhorn's Exhibit A-9 (portion regarding notice information for non-standard well location), as well as Exhibits A-18 and A-19, and paragraph 30 of Travis Macha's landman statement.

Respectfully submitted,

HOLLAND & HART, LLP



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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2026, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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Paula M. Vance



From: [Lowe, Leonard, EMNRD](#)
To: ben@theenergylawgroup.com
Cc: [Paula M. Vance](#); [Engineer, OCD, EMNRD](#); [Adam Rankin](#); [Raylee Starnes](#); [Kayleigh Y. Verboncoeur](#)
Subject: Marathon Oil Company LLC PROTEST of Powderhorn NSL SUPER HORNET STATE COM WELL Applications_10/29/25
Date: Wednesday, October 29, 2025 1:04:14 PM
Attachments: [image001.png](#)
Importance: High

External Email

Benjamin B. Holliday,

Re: **Protest of Powderhorn's NSL applications**

Super Hornet State Com Well No. 504H
Super Hornet State Com Well No. 503H
Super Hornet State Com Well No. 502H
Super Hornet State Com Well No. 501H
Super Hornet State Com Well No. 404H
Super Hornet State Com Well No. 403H
Super Hornet State Com Well No. 402H
Super Hornet State Com Well No. 401H

The OCD was notified that the **Marathon Oil Company** has protested your NSL applications for an unorthodox location of the above subject wells. This party has been identified as an affected person for their specific location.

Therefore, you are being notified that if **Powderhorn Operating, LLC.** wishes for these applications to be considered, it must either go to hearing OR they may be reviewed administratively if the protest is withdrawn as a result of a negotiated resolution within the parties involved.

The NSL applications will be retained by the OCD but suspended from further administrative review.

Please contact the OCD's Engineering Bureau once a decision regarding these applications is determined within the next 30 days. **If no update is given by the 30 day date, the application will be cancelled/rejected.**

10/29/25, Protest Notice Date
11/29/25, 30 day concludes

Protestant contact information:

Paula Vance

Her / Hers / She [\(What's this?\)](#)

Associate

HOLLAND & HART LLP

110 North Guadalupe Street, Suite 1, Santa Fe, NM 87501
pmvance@hollandhart.com | T: (505) 954-7286 | M: (337) 280-9055

Please call or e-mail with any questions regarding this matter.

Thank you,

Leonard R. Lowe

Engineering Bureau
OCD/EMNRD
5400 Oakland Ave.
Albuquerque, N.M 87113
Cell/Office Phone: 505-584-8351
E-mail: Leonard.Lowe@emnrd.nm.gov

From: Paula M. Vance <PMVance@hollandhart.com>
Sent: Wednesday, October 29, 2025 10:20 AM
To: Engineer, OCD, EMNRD <OCD.Engineer@emnrd.nm.gov>; Lowe, Leonard, EMNRD <Leonard.Lowe@emnrd.nm.gov>
Cc: Adam Rankin <AGRankin@hollandhart.com>; Raylee Starnes <ARStarnes@hollandhart.com>; Kayleigh Y. Verboncoeur <KYVerboncoeur@hollandhart.com>
Subject: [EXTERNAL] Marathon Oil Company LLC Objection to Powderhorn NSL Applications

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

To Whom It May Concern,

Marathon Oil Company LLC (an entity that was acquired by ConocoPhillips Company) objects to the following NSL applications:

- Super Hornet State Com 401H - Action ID: 519190
- Super Hornet State Com 402H - Action ID: 519493
- Super Hornet State Com 403H - Action ID: 519497
- Super Hornet State Com 404H - Action ID: 519615
- Super Hornet State Com 501H - Action ID: 519646
- Super Hornet State Com 502H - Action ID: 519647
- Super Hornet State Com 503H - Action ID: 519648
- Super Hornet State Com 504H - Action ID: 519649

Please let me know if you have any questions or need anything else. Thank you.



**Holland
& Hart**

Paula Vance

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