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

APPLICATION OF TAP ROCK RESOURCES, LLC, FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO	**CASE NO. 21609**
APPLICATION OF TAP ROCK RESOURCES, LLC, FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO	**CASE NO. 21610**
APPLICATION OF COG OPERATING, LLC FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO	**CASE NO. 21654**
APPLICATION OF COG OPERATING, LLC FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO	**CASE NO. 21655**
APPLICATION OF MATADOR PRODUCTION COMPANY FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO	**CASE NO. 21631**
APPLICATION OF MATADOR PRODUCTION COMPANY FOR COMPULSORY POOLING, LEA COUNTY, NEW MEXICO	**CASE NO. 21632**

TAP ROCK'S MOTION TO DISMISS MATADOR CASE NOS. 21631 AND 21632

Tap Rock Resources, LLC ("Tap Rock") hereby moves the Division to dismiss the Applications of Matador Production Company ("Matador") for Compulsory Pooling, Case Nos. 21631 and 21632 ("Motion"). Matador opposes this Motion, and COG Operating, LLC takes no position.

Case Nos. 21631 and 21632 should be dismissed for at least two reasons. First, subsequent applications filed by Matador, in Case Nos. 22110 and 22111 ("Matador's Later Applications"), render the applications in Case Nos. 21631 and 21632 ("Matador's First

Applications") moot. Second, Tap Rock owns 100% of the interest in its proposed development in Case Nos. 21609 and 21610, which compete with Matador's First Applications. Since acquiring its 100% interest, Tap Rock has begun drilling the proposed wells, which do not compete with Matador's Later Applications. Consequently, as a matter of law, Tap Rock's cases and Matador's Later Applications protect the parties' correlative rights by presenting the best opportunity for each party to develop its own acreage. *See In re Hearing on Application of Novo Oil & Gas Northern Delaware, LLC for Compulsory Pooling*, Nos. 21275 and 21276, OCC Order No. R-21420-A at 8, ¶ 8 (Sept. 17, 2020) (concluding that BTA's proposed development protected correlative rights by presenting the best opportunity for each party to develop its own acreage).

In support of this Motion, Tap Rock states as follows:

Background

Tap Rock Operating, LLC ("Tap Rock") proposed its 1.5 mile First Bone Spring Coonskin wells ("Coonskin Unit" or "Coonskin Development") on October 16, 2020. COG Operating, LLC, now Conoco Phillips, ("Conoco") and Matador proposed 2-mile wells in response on November 4, 2020 and January 12 2021, respectively. Subsequently, Tap Rock negotiated in good faith and acquired the Conoco interest. Accordingly, Conoco dismissed its Case Nos. 21654 and 21655 on July 20, 2021. Tap Rock or its affiliates now own 100% of the working interest, 100% of the surface estate and 83.25% of the revenue interest in its Coonskin Unit. The Coonskin Unit is entirely made of fee acreage that Tap Rock owns outright in the First Bone Spring formation. The Coonskin Unit and Tap Rock's cases *no longer require force pooling*.[1] Consequently, Tap Rock

[1] Now that Tap Rock has closed on its acquisition of COG's interest and thereby acquired 100% of the interests in the Coonskin Unit, it will be dismissing its compulsory pooling applications in 21609 and 21610. *See* Exhibit D to Motion to Vacate.

has commenced drilling operations on its Coonskin Development and expended an immense amount of capital to that effect.

On July 30, 2021, Matador filed applications in Case Nos. 22110 and 22111, proposing 2.5 mile wells ("Matador's Later Applications"), which overlap its proposals in Case Nos. 21631 and 21632. Matador's Later Applications do not compete with Tap Rock's cases. Matador's Later Applications *compete only with its own cases* now set for hearing on August 20. Yet Matador refuses to dismiss its First Applications, which overlap the Coonskin Unit and in which Matador only owns 25% working interest.

i. Matador's First Applications Are Rendered Moot by Its Later Applications.

Adjudicatory bodies do not decide moot issues. *See Howell v. Heim*, 1994-NMSC-103, ¶ 7, 118 N.M. 500, 882 P.2d 541 ("The doctrine of mootness is a limitation upon jurisdiction or decrees in cases where no actual controversy exists." (alterations, internal quotation marks, and citation omitted)); *KOB-TV, L.L.C. v. City of Albuquerque*, 2005-NMCA-049, ¶ 37, 137 N.M. 388, 111 P.3d 708 ("A case is moot when no actual controversy exists."). As a general rule, if the issues in a case are moot, the case should be dismissed. *Howell*, 1994-NMSC-103, ¶ 7.

In its First Applications, Matador proposed development of the W/2 of Section 18 and the W/2 of Section 33, T24S, R35E. The First Applications thus competed with Tap Rock's Coonskin Unit, which is comprised of the W/2 of Section 28 and the W/2 NW/4 of Section 33, T24S, R35E. Upon learning of Tap Rock's acquisition of COG's interest in the Coonskin Unit, and resulting 100% interest in the Unit, Matador apparently reconsidered its development plan and determined that an alternative plan was better suited. On July 30, 2021, in its Later Applications, Matador proposed spacing units in Case Nos. 22110 and 22111 that are collectively comprised of the W/2 SW/4 of Section 33, T24S, R35E, and the W/2 of Section 4 and the W/2 of Section 9, T25S, R35E.

Matador's Later Applications supersede its First Applications, as the Later Applications overlap the First Applications with respect to the W/2 SW/4 of Section 33. The Later Applications are effectively an amendment to the Later Applications. Moreover, Matador's Later Applications do not conflict with Tap Rock's Coonskin Unit. Because Matador and Tap Rock's applications no longer include overlapping acreage, Matador's First Applications should be dismissed. *See Howell*, 1994-NMSC-103, ¶ 7.

ii. As a Matter of Law, Tap Rock's Proposed Development Best Protects Correlative Rights by Presenting the Best Opportunity for Each Party to Develop Its Own Acreage.

Tap Rock or its affiliates now own 100% of the working interest, 100% of the surface estate and 83.25% of the revenue interest in its Coonskin Unit. The Coonskin Unit is entirely made of fee acreage that Tap Rock owns outright in the First Bone Spring formation. The Coonskin Unit and Tap Rock's cases *no longer require force pooling*. Consequently, Tap Rock has commenced drilling operations on its Coonskin Development and expended an immense amount of capital to that effect.

Moreover, the proposed Coonskin Unit does not strand any acreage. Matador claimed in error that the W/2 SW/4 of Section 33, T24S, R35E, would be stranded as a result of Tap Rock's proposal. Matador's Later Applications illustrate that is not the case. As noted, Matador has proposed to include the W/2 SW/4 of Section 33 in the units proposed in the Later Applications. Matador's proposals in Case Nos. 22110 and 22111 make more sense than Matador's proposals in Case Nos. 21631 and 21632 because the former will be federal *regardless*, but Tap Rock's Coonskin Unit contains 100% fee acreage owned entirely by Tap Rock.

Under these circumstances, as a matter of law, Tap Rock's Coonskin proposal best preserves the correlative rights of the parties. *See* OCC Order No. R-21420-A at 8, ¶ 8 (concluding

that BTA's proposed development protected correlative rights by presenting the best opportunity for each party to develop its own acreage).

WHEREFORE, Tap Rock requests that the Division dismiss Matador's Case Nos. 21631 and 21632.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2021, a true and correct copy of the foregoing pleading was served by electronic mail on counsel of record as follows:

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