

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

**APPLICATION OF MATADOR PRODUCTION
COMPANY FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.**

CASE NO. 22584

**APPLICATION OF EARTHSTONE OPERATING, LLC
FOR COMPULSORY POOLING,
LEA COUNTY, NEW MEXICO.**

CASE NO. 22813

**RESPONSE IN OPPOSITION TO
EARTHSTONE'S MOTION FOR CONTINUANCE**

Matador Production Company ("Matador") submits this response in opposition to Earthstone Operating, LLC's motion for continuance. For the reasons stated, the motion should be denied and, except for the proposed amendment for filing prehearing statements, affidavits, and exhibits, a contested hearing should proceed as scheduled under the controlling prehearing order.

In **Case No. 22584**, Matador seeks an order pooling all uncommitted interests in the Bone Spring formation underlying a standard 320-acre spacing unit comprised of the W/2 W/2 of Sections 26 and 35, Township 18 South, Range 33 East (NMPM), Lea County, New Mexico. In contrast, Earthstone seeks an order pooling all of the W/2 of Sections 26 and 35 in competing **Case No. 22813**. Matador is the majority working interest owner in its spacing unit, owning 50% of the working interest while Earthstone apparently has a right to earn a 25% working interest under a farmout agreement.

Within Matador's proposed spacing unit in the W/2 W/2 of Sections 26 and 35, Matador's affiliate MRC Delaware Resources, LLC ("MRC") owns 100% of the leasehold interest in a

federal lease (NMNM 128363), covering 160 acres, with a primary term drilling deadline of June 30, 2022. That lease is currently under a BLM-approved lease suspension that was recently granted because BLM is still reviewing and has not yet approved Matador's federal APDs. Matador understands that under the terms of the BLM suspension its new lease expiration deadline will be 212 days after BLM approves its currently pending federal APD for the English Buffalo 35-26 Fed Com #121H well. Matador anticipates its APD approval will come in or around June 2022, making its new lease expiration deadline likely to fall sometime around January 2023.

While the lease expiration deadline is no longer immediately imminent, it is nevertheless on the near horizon. While Matador has taken substantial and concrete steps in preparation for conducting drilling operations, much of its preparations necessarily must await a final Division order and the time for any potential de novo appeals to the Commission. Taking into consideration these timeframes, time is of the essence.

MRC's leasehold constitutes a valuable interest, making it critical that Matador's ability to develop its acreage is not prejudiced as a result of hearing delays imposed on Matador by scheduling conflicts that apparently just arose shortly before a long-scheduled contested hearing. Matador is concerned that, with potentially multiple parties involved and the potential for appeals, a delay of even one month risks putting MRC's valuable leasehold interest in peril. A continuance in this circumstance should be well justified. The basis provided in Earthstone's motion is insufficient.

To the extent other working interest owners, such as Avant, with ownership in other acreage not included in Matador's proposed W/2 W/2 spacing unit are contemplating well development plans that involve Earthstone's proposed acreage, their delay in pursuing their plans should not prejudice Matador's efforts to develop its unrelated acreage. It is also not justified to

put Matador's leasehold interest at risk to allow parties in unconnected acreage time to formulate their plans.

As to the notice concerns raised in the motion, to the extent Earthstone must rely on notice by publication, the notice defect can be cured after holding a contested hearing on June 2 by continuing the hearing for notice purposes only. Depending on when the publication ran, the notice defect could be cured by continuing the hearing to a docket as early as June 16, 2022.

Earthstone's motion is not well taken and the basis for a continuance is not justified. The motion should be denied. In the alternative, should the Hearing Examiner favor granting the continuance, Matador requests that the continuance be short, a contested hearing be set at the earliest available date (including potentially a special hearing date), and that any further continuance requests affecting Matador's case be denied barring extenuating circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2022, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

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