

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

**APPLICATIONS OF PERMIAN OILFIELD
PARTNERS, LLC TO APPROVE
SALT WATER DISPOSAL WELLS IN
LEA COUNTY, NEW MEXICO**

CASE NOS. 23807-23808

MOTION TO FILE SUR-REPLY

Permian Oilfield Partners, LLC (“POP”) respectfully moves to file the attached Sur-Reply opposing Matador’s Objection to Proceeding by Affidavit. The grounds for the Sur-Reply are as follows:

1. Matador’s Reply cites Division guidance documents in support of its position. A brief sur-reply is warranted to allow POP to address this guidance, which is irrelevant under the circumstances presented these cases.
2. Matador’s Reply cites an example of another contested case being set for a status conference prior to being set for a contested hearing. A brief sur-reply is warranted to allow POP to address this case, which is distinguishable.
3. Matador’s Reply raises asserted witness availability and confidentiality concerns in its Response. A brief sur-reply is warranted to allow POP to address those arguments.

Due to the relief POP requests in this Motion, Matador’s opposition to its filing is presumed and therefore POP did not confer with Matador on the relief requested. Matador conferred with counsel for Permian Resources Operating, LLC who does not oppose this motion.

A proposed Sur-Reply is attached as Exhibit A hereto.

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS

& SISK, P.A.

By: Deana M. Bennett

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Earl DeBrine, Jr.

Yarithza Peña

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following counsel of record by electronic mail this 16th day of October, 2023.

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Attorneys for Permian Resources Operating, LLC

/s/ Deana M. Bennett

Deana M. Bennett

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[PROPOSED] SUR-REPLY IN RESPONSE TO MATADOR REPLY

Permian Oilfield Partners, LLC (“POP”) respectfully submits this sur-reply in response to MRC Permian Company’s and Matador Production Company’s Reply to Permian Oilfield Partners, LLC and Support of Matador’s Objection to Proceeding by Affidavit (“Matador Reply”), filed on October 13, 2023. Matador’s Reply is inapposite and does not support delaying a hearing on POP’s cases for the following reasons:

1. The Division guidance Matador cites is inapposite because it applies to cases that are eligible for presentation by affidavit but to which a party objects to presentation by affidavit. *See* July 22, 2020 Notice (“The Hearing Examiner will call each case and inquire whether the parties agree that the case can be taken by affidavit.”). Here, however, there was no possibility that POP’s cases could proceed by affidavit, and thus the Division’s guidance simply does not apply. Nor is it appropriate for Matador to object to POP’s cases being presented by affidavit when they were never contemplated to be heard by affidavit nor could they be heard by affidavit because they are contested from the outset.¹ The Division’s rules clearly provide that “[i]n the case of an administrative application where the required notice was sent and a timely filed protest was made,

¹ The Goodnight Midstream cases Matador cites do not support Matador’s position because there is no indication in the record that Goodnight Midstream sought to challenge Empire New Mexico, LLC’s objection to the cases proceeding by affidavit. *See generally* July 6, 2023 Transcript of Proceedings, pages 41-45, Case Nos. 23614-23617.

Exhibit A

the division shall notify the applicant and the protesting party in writing that the case has been set for hearing and the hearing's date, time and place. **No further notice is required.**" Rule 19.15.4.12(E) (emphasis added).

2. Contrary to Matador's Reply, a status conference is not an "essential substantive component" for contested cases. Matador Reply at 4. Instead, status conferences were implemented by the Division to deal with the exigencies of the COVID-19 pandemic and the Division's docket, as the Division guidance documents make clear. In fact, the Division's rules governing adjudicatory hearings do not even include the words "status conference," but allow for a pre-hearing conference upon the request of a party but Matador did not file such a request. When it comes to compulsory pooling applications, POP does not take a position on the process of having status conferences, nor does it take a position on the process of objecting to cases proceeding by affidavit for compulsory pooling cases, which are capable of presentation by affidavit. When, however, a case cannot be presented by affidavit, which is the situation here because Matador objected to POP's administrative applications, an objection to presentation by affidavit is simply immaterial and ineffective. Matador triggered a contested hearing by objection to POP's cases. It cannot now avoid that process by objecting to the cases proceeding by affidavit or asserting that its confidential information requires further delay.² Matador was aware of the confidential nature of the information it purports to have when it objected to POP's administrative applications and cannot now rely on the confidential nature of the information as a reason to delay the hearings.

3. Matador's Reply also asks the Division to disregard the Division's rules, in favor of the Division's guidance. The Division's guidance does not trump the Division's rules, which require that when an objection is lodged against an administrative application, the administrative

² POP is willing to agree to a non-disclosure or other confidentiality agreement.

application be set for hearing. *See* Rule 19.15.26.8.D (When “a written objection to an application for an administrative approval of an injection well is filed within 15 days after receipt of a complete applications...*the division shall set the application for hearing and give notice of the hearing.” See* Rule 19.15.26.8.D (emphasis added). And as noted, under Rule 19.15.4.12(E) where an objection is made to an administrative application, the Division provides notice that the case is set for hearing and “no further notice is required.” The Division’s rules require that an objected-to administrative application be set for hearing. Matador’s attempt to side-step this requirement based on the Division’s guidance should be rejected.

4. Matador’s assertion that it has witness unavailability issues is not well-taken given that Matador has known since at least September 25, 2023 that POP intended to move forward with its hearing on October 19, 2023. *See* Exhibit D to POP’s Response (stating POP’s intention to go to hearing on October 19, with no response from Matador regarding witness availability issues). According to Matador’s Reply, Matador’s witness is not unavailable on October 20, and POP would agree to a continuance to October 20. It is not unusual for the Division to continue the docket for a second day, and doing so here would accommodate Matador’s schedule while at the same time maintaining the properly noticed and scheduled hearing on POP’s cases.

5. Matador’s reply suggests that POP rushed to file the hearing application without attempting to discuss Matador’s concerns with Matador. That simply is not the case. POP has reached out to Matador multiple times requesting a meeting with Matador, and agreeing to meet with the Division any time to discuss Matador’s alleged concerns.³ Matador also suggests that POP improperly continued the cases to October 19, without conferring with Matador. Matador Reply

³ *See* email communications attached to POP’s Response and Exhibit A (additional email communication between POP and Matador). POP reached out directly to Matador’s in-house counsel to discuss Matador’s protest because Mr. Perkins was identified as the Matador contact.

at 2-3. POP continued the cases to October 19 because that was the next available docket. POP alerted Matador to its intent to do so and Matador did not indicate any witness unavailability. If Matador had witness availability issues, it should have, and could have, alerted POP but it chose not to.

6. Matador contends it “has legitimate, significant concerns regarding POP’s applications it is prepared to raise at hearing...” Matador Reply at 1. A hearing is set for October 19, 2023, and Matador has the forum it invoked to raise its concerns. Matador has had ample opportunity to prepare for the hearing, having first raised its concerns known since at least July 18, 2023. Matador also has had ample time and opportunity to present those concerns to POP and to the Division and prepare for an adjudicatory hearing. *See, e.g.,* Goodnight Midstream, LLC Case Nos. 23614-23617, Response in Opposition to Motion for Continuance, at pp. 2, 5 (“Two months is ample time” to prepare for a contested hearing when the party opposing the application received notice of the administrative application, hearing applications, and had knowledge of the basis for the objections.).

In sum, Matador’s Reply presents no reason for the Division to delay POP’s cases.

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: Deana M. Bennett

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Attorneys for Permian Resources Operating, LLC

/s/ Deana M. Bennett

Deana M. Bennett

From: Sean Puryear <spuryear@popmidstream.com>
Sent: Friday, September 22, 2023 11:37 AM
To: Kyle Perkins <KPerkins@matadorresources.com>
Subject: Re: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

Kyle,

Bumping this one back up. Can we schedule a meeting with your group next week to discuss?

Thanks,
Sean

Sent from my iPhone

On Sep 19, 2023, at 8:27 AM, Sean Puryear <spuryear@popmidstream.com> wrote:

Kyle,

Have you all had a chance to decide on a time we can meet to discuss these protests?

Thanks,
Sean

Sent from my iPhone

On Sep 15, 2023, at 10:18 AM, Kyle Perkins <KPerkins@matadorresources.com> wrote:

Mr. Puryear, thanks for following up. I'll talk to the team here and follow up. Thanks.

From: spuryear@popmidstream.com <spuryear@popmidstream.com>
Sent: Friday, September 15, 2023 10:53 AM
To: Kyle Perkins <KPerkins@matadorresources.com>
Subject: RE: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

****EXTERNAL EMAIL****

Mr. Perkins,

Bumping this back to the top of your inbox. Deana mentioned she had been in contact and Matador was interested in technical discussion regarding these well applications. Is there a time next week that we can get together to discuss? Please let me know where/when makes sense for your team and I will be there.

Thanks,

Sean Puryear

Chief Executive Officer
Permian Oilfield Partners, LLC
PO Box 3329
Hobbs, NM 88241
(817) 600-8772
spuryear@popmidstream.com
<image001.jpg>

From: Kyle Perkins <KPerkins@matadorresources.com>
Sent: Tuesday, September 5, 2023 1:27 PM
To: spuryear@popmidstream.com
Subject: RE: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

Mr. Puryear,

Thanks for following up. I'll circle back with the team following the holiday weekend and look for good dates to have a call. Thanks again.

From: spuryear@popmidstream.com <spuryear@popmidstream.com>
Sent: Tuesday, September 05, 2023 1:25 PM
To: Kyle Perkins <KPerkins@matadorresources.com>
Subject: RE: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

****EXTERNAL EMAIL****

Mr. Perkins,

Following up on the below discussion. Is there a time we could visit to discuss Matadors concerns with these two permit applications? Perhaps they could be of use to Matadors development plans in the area? Looking forward to continuing the discussion.

Thanks,

Sean Puryear

Chief Executive Officer
Permian Oilfield Partners, LLC

PO Box 3329
Hobbs, NM 88241
(817) 600-8772
spuryear@popmidstream.com
<image001.jpg>

From: spuryear@popmidstream.com <spuryear@popmidstream.com>
Sent: Wednesday, August 30, 2023 9:34 AM
To: 'Kyle Perkins' <KPerkins@matadorresources.com>
Subject: RE: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

Mr. Perkins,

We have near immediate need for capacity in T19S R34E & T20S R34E. We are attempting to have the Overdue online by April, 2024 with the Belated coming online by year end 2024. We anticipate needing more capacity going both East and West of those two locations, but do not have line of sight on it just yet.

I have requested our attorney to proceed with hearing preparation for these two wells, targeting the October 5th docket. I would be thrilled if we can work something out prior to going to hearing. I will make myself available at your teams convenience and happy to travel to your office to sit down. Looking forward to the visit.

Thanks,

Sean Puryear

Chief Executive Officer
Permian Oilfield Partners, LLC
PO Box 3329
Hobbs, NM 88241
(817) 600-8772
spuryear@popmidstream.com
<image001.jpg>

From: Kyle Perkins <KPerkins@matadorresources.com>
Sent: Wednesday, August 30, 2023 9:26 AM
To: spuryear@popmidstream.com
Subject: RE: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

Mr. Puryear,

Thanks for reaching out. We'd be happy to discuss. Can you please let me know which of these applications POP would be planning to drill? I'll check with our team here and find a good time to discuss. Thanks.

From: spuryear@popmidstream.com <spuryear@popmidstream.com>
Sent: Wednesday, August 30, 2023 8:32 AM
To: Kyle Perkins <KPerkins@matadorresources.com>
Subject: FW: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

****EXTERNAL EMAIL****

Mr. Perkins,

I am reaching out to you in regard to the below referenced protest of POP submitted SWD applications in Lean and Eddy county, made by Matador. You are listed as the protest contact and I wanted to reach out to see if Matador is interested in discussing a path to resolution. We are interested in a few of these applications more so than the others, as we have area operators needing the capacity.

Is there a time in the coming days to jump on a call to discuss? Looking forward to the visit.

C-108 Application Well Name	OCD Appl. No.	Assigned SWD No.	Date of Protest
Belated Federal SWD #1	pMSG2319954754	SWD-2545	7/18/2023
Beat the Punch Federal SWD #1	pMSG2319953455	SWD-2544	7/18/2023
Tardy Federal SWD #1	pMSG2319956571	SWD-2546	7/18/2023
Overdue Federal SWD #1	pMSG2319959255	SWD-2548	7/18/2023
Thompson 35 Federal SWD #1	pMSG2323043390	SWD-2554	7/26/2023
Browning 26 Federal SWD #1	pMSG2323038040	SWD-2551	7/26/2023
Ruger 31 Federal SWD #1	pMSG2323040020	SWD-2552	7/26/2023

Thanks,

Sean Puryear

Chief Executive Officer
Permian Oilfield Partners, LLC
 PO Box 3329
 Hobbs, NM 88241
 (817) 600-8772
spuryear@popmidstream.com
[<image001.jpg>](#)

From: Goetze, Phillip, EMNRD <phillip.goetze@emnrd.nm.gov>
Sent: Friday, August 18, 2023 2:14 PM
To: Sean Puryear <spuryear@popmidstream.com>
Cc: Kyle Perkins <KPerkins@matadorresources.com>; Gebremichael, Million, EMNRD <Million.Gebremichael@emnrd.nm.gov>; Wrinkle, Justin, EMNRD <Justin.Wrinkle@emnrd.nm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@emnrd.nm.gov>; Fuge, Dylan, EMNRD

<Dylan.Fuge@emnrd.nm.gov>; Moander, Chris, EMNRD
 <Chris.Moander@emnrd.nm.gov>; Tremaine, Jesse, EMNRD
 <JesseK.Tremaine@emnrd.nm.gov>

Subject: Notification of Protests for Permian Oilfield Partners C-108 Applications by Matador Production

RE: C-108 Applications for: Belated Federal SWD #1; Beat the Punch Federal SWD #1; Tardy Federal SWD #1; Overdue Federal SWD #1; Thompson 35 Federal SWD #1; Browning 26 Federal SWD #1; and Ruger 31 Federal SWD #1.

Mr. Puryear:

The OCD was notified by Matador Production Company and MRC Permian Company that they are protesting seven C-108 applications recently submitted by Permian oilfield Partners, LLC (“Permian”). This operator has been identified as an affected person for the proposed UIC Class II wells being considered. Because of the protest, seven applications can no longer be reviewed administratively. Permian is being notified that for these applications to advance in the review process that there are two options: resolution of the protest through hearing or a negotiated resolution with the protesting party that results in the withdrawal of the protest. If the protest is withdrawn, then the application can be reviewed administratively. The applications will be retained pending a hearing or other resolution.

Applications that are subjects of this notification:

C-108 Application Well Name	OCD Appl. No.	Assigned SWD No.	Date of Protest
Belated Federal SWD #1	pMSG2319954754	SWD-2545	7/18/2023
Beat the Punch Federal SWD #1	pMSG2319953455	SWD-2544	7/18/2023
Tardy Federal SWD #1	pMSG2319956571	SWD-2546	7/18/2023
Overdue Federal SWD #1	pMSG2319959255	SWD-2548	7/18/2023
Thompson 35 Federal SWD #1	pMSG2323043390	SWD-2554	7/26/2023
Browning 26 Federal SWD #1	pMSG2323038040	SWD-2551	7/26/2023
Ruger 31 Federal SWD #1	pMSG2323040020	SWD-2552	7/26/2023

Protest contact information:

Kyle Perkins
 Vice President & Assistant General Counsel
 Regulatory and Operational Matters
 Matador Resources Company
 5400 LBJ Freeway, Suite 1500
 Dallas, TX 75240
 (972) 371-5202 (office)
kperkins@matadorresources.com

Please continue to provide OCD with information regarding the status of these applications including any resolution of protests. Please contact the UIC Group with any questions regarding this matter. PRG

Phillip R. Goetze
 UIC Group Manager

Oil Conservation Division
Energy, Minerals and Natural Resources Department
Horizon Building
8801 Horizon Blvd, Suite 260, Albuquerque, NM 87113
Direct: 505.660.8274
Email: phillip.goetze@emnrd.nm.gov

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