

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

**APPLICATIONS OF FASKEN OIL & RANCH, LTD
TO EXTEND THE DRILLING DEADLINE UNDER
ORDERS R-22121 AND R-22122,
LEA COUNTY, NEW MEXICO.**

CASE NOS. 24396 & 24397

MARATHON OIL PERMIAN LLC'S PRE-HEARING STATEMENT

Marathon Oil Permian LLC submits this Pre-Hearing Statement for the above-referenced cases pursuant to the rules of the Oil Conservation Division.

APPEARANCES

APPLICANT

Fasken Oil & Ranch, Ltd.

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OBJECTING PARTY

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STATEMENT OF MARATHON'S POSITION

Marathon objects to Fasken Oil & Ranch, LTD's ("Fasken") applications to amend filed in Case Nos. 24396 and 24397 (the "Fasken Second Extension Applications"). Marathon is a pooled working owner subject to the orders Fasken seeks to amend and extend (the "Baetz Orders") and Marathon objects to Fasken's request for yet another extension of time to commence drilling the wells under the Baetz Orders. In the initial cases underlying the Fasken Second Extension Cases, filed 2 ½ years ago, Fasken sought to pool two Bone Spring units, together covering the W/2 of Sections 15 and 22, Township 20 South, Range 32 East, NMPM, Lea County, New Mexico. Under its limited development plan, Fasken proposed to drill only two (total) Bone Spring wells, the Baetz wells, one in the W/2W/2 and one in the E/2W/2. Fasken submitted its original applications on March 8, 2022, in Case Nos. 22697 and 22698.

On May 9, 2022, the Division entered Order R-22121 in Case No. 22697 and Order R-22122 in Case No. 22698 ("Baetz Orders"). Under the terms of the Baetz Orders, Fasken had through May 10, 2023 to commence drilling the wells. Unable to meet that deadline, Fasken, on April 3, 2023, submitted extension applications, requesting an extension of time through May 10, 2024. On June 7, 2023, the Division issued Order R-22121-A and Order R-22122-A, extending the deadline for Fasken commence drilling until May 9, 2024. Now, Fasken is requesting a second extension of time, which, if granted, would give Fasken through May 9, 2025, to commence drilling the wells under the Baetz Orders.

The issue to be resolved at the contested hearing in these matters is whether Fasken can demonstrate good cause to warrant the Division's exercise of discretion and extend the Baetz Orders, which would otherwise terminate automatically. In Marathon's view, good cause is not limited only to the BLM's delay; instead, the Division can, and should, evaluate whether the

totality of the circumstances presented here weigh in favor or against an extension of time. Under the circumstances presented here, Fasken cannot meet its burden, in light of the totality of the circumstances, to show adequate good cause to justify the Division's exercise of its discretion to allow Fasken yet another year under the Baetz Orders.

Marathon believes that the following facts are undisputed and are material to the issue presented in these consolidated cases:

1. Fasken has not received approved APDs from BLM.
2. Fasken did not timely seek approval of a Development Area, which is a requirement for development in the Designated Potash Area. Fasken only provided notice of its request for an approved Development Area in May 2024—a month *after* Fasken filed its Second Extension Applications, which were filed on April 1, 2024, and nearly two years after the Division issued the Baetz Orders.
3. Fasken's DA has been protested.
4. Fasken's requested DA covers the W/2 of Sections 15 and 22, and does not include the W/2 of Section 10.

The Division has the authority and duty to fully evaluate whether Fasken can establish good cause for a second extension, including whether Fasken's Second Extension Applications prevent waste, protect correlative rights, and avoid the drilling of unnecessary wells. Given the Division's mandate to prevent waste and protect correlative rights and the Division's broad grant of authority to effectuate that mandate, the Division should reject Fasken's Second Extension Request. *See, e.g.,* NMSA 1978, § 70-2-6(A) (“[the Division] shall have *jurisdiction, authority and control of and over all persons, matters or things necessary or proper to enforce effectively the provisions of this act or any other law of this state relating to the conservation of oil or gas and the prevention of waste of potash as a result of oil or gas operations.*”); NMSA 1978, § 70-2-

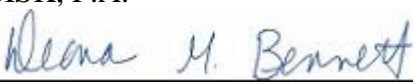
11(A) (“The division is hereby empowered, *and it is its duty*, to prevent waste prohibited by this act and to protect correlative rights, as in this act provided.”) (emphasis added)).

PROCEDURAL ISSUES

Marathon reserves the right to cross-examine Fasken’s witnesses.

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS
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By: 


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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on counsel of record by electronic mail on September 10, 2024:

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QUESTIONS

Action 382364

QUESTIONS

Operator: MARATHON OIL PERMIAN LLC 990 Town & Country Blvd. Houston, TX 77024	OGRID: 372098
	Action Number: 382364
	Action Type: [HEAR] Prehearing Statement (PREHEARING)

QUESTIONS

Testimony	
<i>Please assist us by provide the following information about your testimony.</i>	
Number of witnesses	<i>Not answered.</i>
Testimony time (in minutes)	<i>Not answered.</i>