

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

**APPLICATIONS OF AVANT OPERATING, LLC FOR
COMPULSORY POOLING AND APPROVAL
OF AN OVERLAPPING NON-STANDARD
HORIZONTAL SPACING UNIT, LEA COUNTY,
NEW MEXICO.**

CASE NOS. 24632 - 24633

**OBJECTION TO AVANT OPERATING, LLC'S
AMENDED EXHIBITS AND MOTION TO AMEND APPLICATIONS**

Magnum Hunter Production, Inc. ("Magnum Hunter") hereby objects to (1) Avant Operating, LLC's ("Avant") amended exhibit packet filed the afternoon of November 2, 2024; and (2) Avant's motion to amend its Applications in Cases 24632 and 24633, filed November 2, 2024.

1. Avant has informed counsel that it amended its exhibits as follows: "The amendment is limited to Exhibits D-2 (Notice Chart) and D-3 (Green Cards). I received the materials yesterday from prior counsel. No other changes were made." See Attachment 1, email from Avant Counsel. Notably, Avant's mailing receipts do not clearly state when each mailing was sent or delivered to affected parties. As a result, to confirm when mailings were sent and received (in particular related to the issue below), Magnum Hunter staff has to look up each certified mailing number on the green cards and mailing receipts provided. This is time intensive. Avant switched to its current counsel well over a month ago and it knew that it would need to file proof of certified mailing with its Exhibits for these cases at that time. Therefore, Avant should have timely prepared its exhibits as directed by the Pre-Hearing Order.


2. Next, Avant claims that it now needs to amend its application on the eve of the hearing. Applications are jurisdictional particularly when the relief requested is included in the Division's posted notice. Under Rule 19.15.4.8.B, all applicants are required to file their applications at least 30 days before the date of the scheduled hearing. Then under Rule 19.15.4.9, the Division has notice requirements that it must follow to ensure that proper notification is given to the public about the case. This allows anyone reading the Division docket notices to see if they were incorrectly omitted as an affected party entitled to notice by the applicant. Thus, notification is given two ways: (1) to the general public by the Division; and (2) specifically to all affected parties identified by the applicant through certified mailings and through published newspaper notices. Here, we do not even have an attached proposed amended application or notice for consideration – just Avant's motion.
3. When an application needs to be amended, the Division has asked parties to dismiss the pending application and to refile the new/amended application (including a new payment of the \$500 application fee). Then the Division posts a new notice of the case that is proposed in the amended application by the applicant. Here, there simply is not enough time to go through this process before the November 5th Hearing.
4. Avant should have and could have made this filing much sooner. On October 4, 2024, counsel for Magnum Hunter emailed and called Avant's attorney to specifically inform Avant about the fact that Avant had omitted pre-existing vertical wells from its overlapping unit request in its application. *See* Attachment 2, email from Magnum Hunter counsel. Magnum Hunter put Avant on-notice of this deficiency (and others deficiencies) in Avant's application for its Bone Spring wells – Case 24632; and told Avant that it would need to

file an amended application. However, Avant did nothing in this regard until November 2nd.

5. As justification for its amendment, Avant states that notifications were mailed to interest owners in the newly added preexisting units in July. However, Avant also withheld this information until November 2nd. So, now on the eve of hearing, while the parties are preparing numerous other items, Avant appears to be belatedly attempting to fix the errors that Mangum Hunter inquired about in early October. This is unfair to Magnum Hunter, who spent time preparing its required exhibits in advance to be timely filed so that all parties had equal time and access to its exhibits and information. Magnum Hunter should have been given equal time to prepare hearing arguments on an issue that it specifically pointed out to Avant nearly a month ago.

Based on the foregoing, Magnum Hunter respectfully asks that the Division deny Avant's requests to belatedly amend its exhibits and deny the motion to amend its applications. Or that the Division issue alternative relief, as it sees fit.

Respectfully submitted,

By: 
Jennifer L. Bradfute
Bradfute Consulting & Legal Services
d/b/a Bradfute Sayer P.C.
P.O. Box 90233
Albuquerque, NM 87199
Phone 505.264.8740
jennifer@bradfutelaw.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Division and was served on counsel of record via electronic mail on November 3, 2024:

Jennifer Bradfute – jennifer@bradfutelaw.com
ATTORNEY FOR MARATHON OIL PERMIAN LLC

Elizabeth Ryan – beth.ryan@conocophillips.com
Keri L. Hatley – keri.hatley@conocophillips.com
**ATTORNEYS FOR COG OPERATING LLC AND
CONCHO OIL & GAS LLC**

Michael H. Feldewert – mfeldewert@hollandhart.com
Adam G. Rankin – agrarkin@hollandhart.com
Paula M. Vance - pmvance@hollandhart.com
**ATTORNEYS FOR MRC PERMIAN COMPANY, FORAN OIL COMPANY AND
PERMIAN RESOURCES OPERATING, LLC**

Benjamin B. Holiday – ben@theenergylawgroup.com; ben-svc@theenergylawgroup.com
ATTORNEYS FOR AVANT OPERATING, LLC

Deana M. Bennett – deanna.bennett@modrall.com
Earl E. DeBrine – earl.debrine@modrall.com
Yarithza Pena – yarithza.pena@modrall.com
ATTORNEYS FOR FRANKLIN MOUNTAIN ENERGY 3, LLC



Jennifer L. Bradfute

ATTACHMENT 1

From: [Benjamin Holliday](#)
To: [Jennifer Bradfute](#); [Michael Feldewert](#); [Adam Rankin](#); [Paula M. Vance](#); [Ryan, Beth \(LDZX\)](#); [Hatley, Keri \(LDZX\)](#); [Deana M. Bennett](#); earl.debrine@modrall.com; [Yarithza Pena](#)
Subject: Notice of Motion to Amend
Date: Saturday, November 2, 2024 2:15:37 PM
Attachments: [image001.png](#)
[image002.png](#)
[Case No. 24632 and 24633 - Motion to Amend App - FINAL.pdf](#)

Good afternoon all: Please see attached motion filed today to amend Avant's applications 24632 and 24633 to only the extent to properly identify the overlapping HSU. Notice to all parties entitled to notice of the overlap was provided in July of 2024.



Benjamin B. Holliday
President, Holliday ENERGY Law Group



A 107 Katherine Ct, San Antonio Texas, 78209
O 210.469.3187 ext. 100 **M** 210.219.9612
E ben@theenergylawgroup.com
W theENERGYlawgroup.com



ATTACHMENT 2

From: [Jennifer Bradfute](#)
To: [Benjamin Holliday](#)
Subject: Turnpike/Daytona Cases
Date: Friday, October 4, 2024 12:08:00 PM

Hi Ben,

I know that similar to myself, you are coming into these cases after the original applications were filed. I tried calling earlier and left you a voice message. I have found some items in Coterra's Bone Spring applications which require us to file new/amended applications with the OCD, which I filed today to be set on the 11/5 hearing docket and I will be sending out an email to the parties in the contested cases. I also believe that Avant has some deficiencies in their applications which require new Bone Spring Applications to be filed that I wanted to discuss with you.

Specifically, Avant's proposed spacing unit will overlap not only with the Prima's Bone Spring wells in Section 29, Avant's proposed BS spacing unit also overlaps with the spacing unit for a pre-existing vertical well producing from the Bone Spring in Section 32 – the Union State Com #001 well (API 30-025-24992).

Additionally, we don't believe that Avant can create a spacing unit that carves out numerous interest owners from the middle of the Bone Spring formation. Please see NMOD Order R-13823-A. While the Commission has allowed parties to exclude a small non-productive portion of a formation where one or two owners in the non-productive zone have agreed to be excluded (see NMOCC Order R-14023-A), that holding was limited to the fact presented in that particular Commission case, and we have a very different fact pattern here in these cases. Coterra believes that its correlative rights in the Second Bone Spring will be impaired if this zone is not included. Coterra also does not show that the interests in the Bone Spring formation in Section 32 within the 1st and 3rd Bone Spring intervals are uniform, as stated in Avant's application.

Coterra wanted to proactively raise these issues with Avant prior to the hearing and remains willing to continue to work with Avant to discuss the depth severance issues in Sections 29 and 32. Please let me know if you think it might be helpful to hold a meeting between Coterra and Avant to discuss some of these issues prior to the hearing.

Thanks!
Jennifer

Jennifer Bradfute
jennifer@bradfutelaw.com
M 505.264.8740

*** This privileged and confidential information is intended only for the use of the individual(s)*

*named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this message is prohibited. Anyone who receives this communication in error should notify me immediately by reply email. ***